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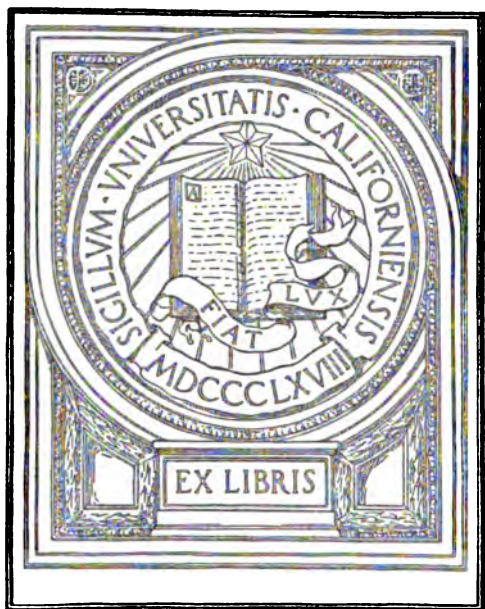
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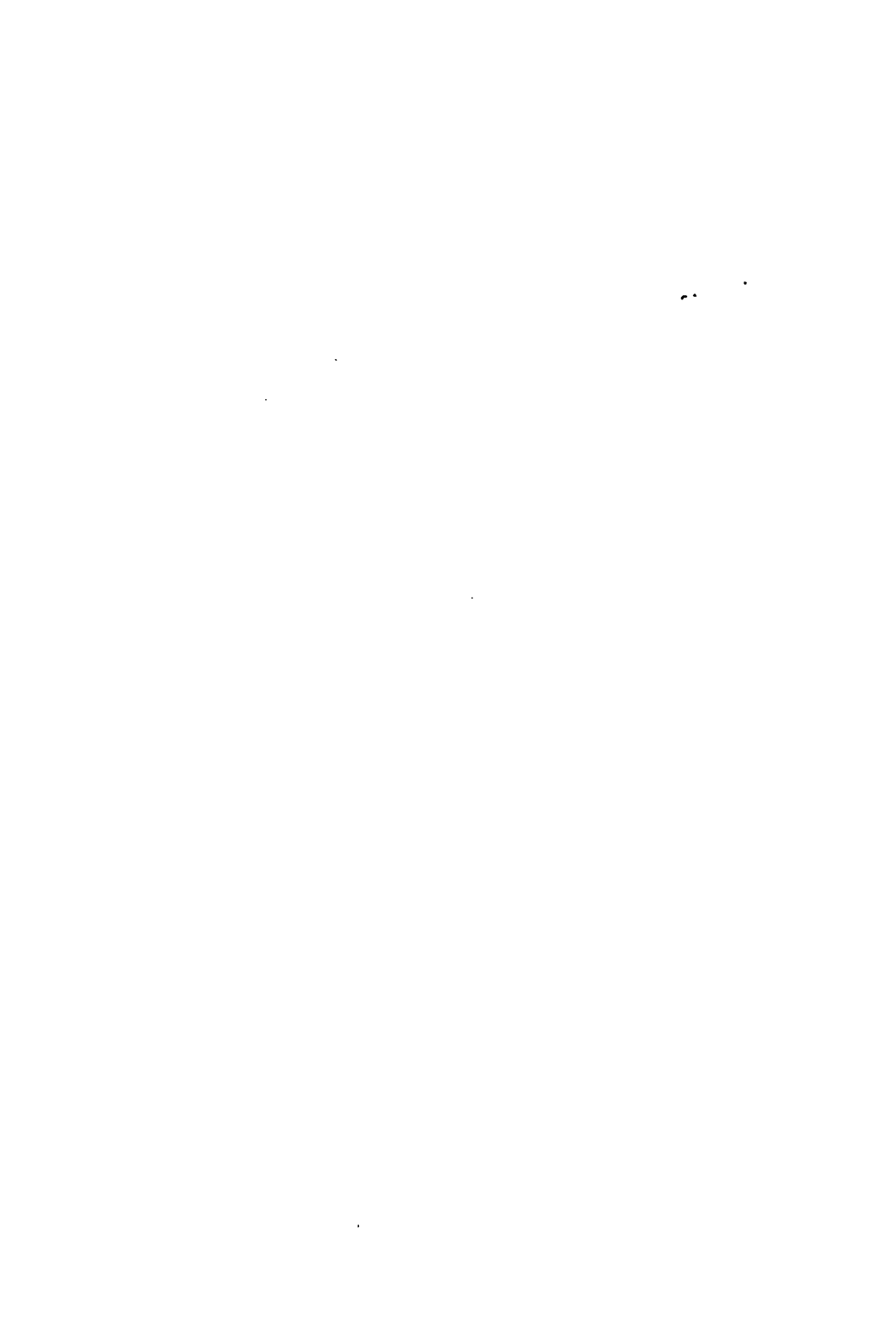
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THE KINGDOM OF CANADA  
IMPERIAL FEDERATION  
THE COLONIAL CONFERENCES  
THE ALASKA BOUNDARY  
AND  
OTHER ESSAYS

JOHN S. EWART



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**THE KINGDOM OF CANADA  
IMPERIAL FEDERATION, THE COLONIAL  
CONFERENCES  
THE ALASKA BOUNDARY  
AND OTHER ESSAYS**

**BY**

**JOHN S. EWART, K.C.**

"

**UNIVERSITY OF  
TORONTO**

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1908**

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E.

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**1908**

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TO THE  
ALPHABETIC

“By thy fair salubrious clime,  
By thy scenery sublime,  
By thy mountains, streams, and woods,  
By thine ever-lasting floods —  
If greatness dwells beneath the skies,  
Thou to greatness shalt arise.”

“To know whether it be the interest of this continent to be independent, we need only ask this easy, simple question: Is it the interest of a man to be a boy all his life?” — TYLER: *The Literary History of the American Revolution*, II, 43.

“O child of nations, giant-limbed,  
Who stand'st amongst the nations now  
Unheeded, unadorned, unhymned,  
With unanointed brow.

“How long the ignoble sloth, how long  
The trust in greatness not thine own?  
Surely the lion's brood is strong,  
To front the world alone!

“How long the indolence, ere thou dare  
Achieve thy destiny, seize thy fame —  
Ere our proud eyes behold thee bear  
A nation's franchise, nation's name?”

—CHARLES G. D. ROBERTS.





# CONTENTS

## THE KINGDOM OF CANADA

	PAGE
The rise and meaning of Canadian Clubs . . . . .	1
Federation prophecies of nationality . . . . .	2
"Kingdom of Canada" proposed as title . . . . .	3
Freedom from Colonial Office desired . . . . .	3
Is Canada a nation or a colony? . . . . .	4
Definition of colony . . . . .	5
Canada is a colony . . . . .	5
Canada's constitutional limitations . . . . .	6
Instances . . . . .	7-8
Coasting trade . . . . .	9
Extra-territoriality . . . . .	9
Naturalization . . . . .	11
Treaty-making . . . . .	12
Dissent and disallowance . . . . .	15
Governor-General's power . . . . .	16
Copyright . . . . .	17
Judicial dependence—Privy Council . . . . .	19-21
The future . . . . .	22
British connection . . . . .	23
Independence . . . . .	24
Imperial Federation . . . . .	25
Kingdom or Dominion? . . . . .	27
War . . . . .	28
British connection . . . . .	29

## THE KINGDOM OF CANADA AND AUSTRALIA

Canada's freedom of choice . . . . .	31
Comparison of Canadian and Australian constitutions . . . . .	32
Merchant shipping . . . . .	32
Fisheries . . . . .	33
Foreign affairs . . . . .	33
The Pacific islands . . . . .	35
Independence . . . . .	36
Amendments of the constitution . . . . .	37

## THE KINGDOM OF CANADA: COLONY TO KINGDOM

	PAGE
Canada's future divined from her past . . . . .	39
No tendency away from monarchy . . . . .	39
Tendency to completest self-government . . . . .	40
Canada has already a King . . . . .	40
Case of disagreement with United Kingdom . . . . .	41
"Reducing the link" . . . . .	42
Case of disagreement . . . . .	43

## THE KINGDOM OF CANADA: COLONIAL CONFERENCE OF 1907

Colonial independence . . . . .	47
"Colonies" — or what else? . . . . .	50
"His Majesty's Government" . . . . .	51

## THE BRITISH EMPIRE

Duty "to keep the Empire together" . . . . .	53
Colonial status a "by-gone thing" . . . . .	53
Imperial Federation impossible . . . . .	53
The ethical situation very perplexing . . . . .	53
Loyalty of parts to the whole . . . . .	54
Imperialists desire dissolution . . . . .	55
Canada not in position of Cornwall . . . . .	55
Distinguish between the United Kingdom and the Empire ruled by it . . . . .	56
Empire consists of one dominant and several subservient states . . . . .	56
Is Canada a part of the Empire? . . . . .	57
Not part of the dominant state . . . . .	57
Not really one of the subordinate states . . . . .	57
In form, only, is Canada a part of the Empire . . . . .	58
Situation during peace . . . . .	58
Situation during war . . . . .	59
"Abandoning the mother-country" . . . . .	61
Summary . . . . .	63

## THE CANADIAN FLAG

Origin of the Union Jack . . . . .	65
Flags as symbols . . . . .	65
Canadian application of the red ensign . . . . .	66
Admiralty's assent and objection . . . . .	66
British statute . . . . .	67
Canadian application for sanction . . . . .	67
Lord Stanley's endorsement . . . . .	68
Admiralty's concession . . . . .	69

## CONTENTS

vii

	PAGE
Disrespect to Canadian flag . . . . .	69
Red ensign as Canadian flag . . . . .	70
American revolutionary flag . . . . .	70
Canadian requirement . . . . .	71
The Transvaal flag . . . . .	71

### CANADA AND THE CANADIAN CLUBS

Why so little national sentiment ? . . . . .	73
Necessity of union . . . . .	73
Canadians of dual origin . . . . .	74
Canada's geographical situation . . . . .	75
The "Canada First" party . . . . .	76
Crystallization of Canadian sentiment . . . . .	77
Why was Nova Scotia opposed to federation ? . . . . .	78
Independence necessary to national sentiment . . . . .	80
The "interests of the Empire" . . . . .	81
Imperialistic proposals withdrawn . . . . .	82
Canada becoming self-confident . . . . .	83
Work for Canadian Clubs . . . . .	84
Imperialism . . . . .	85
Canada's war position . . . . .	86
Sir Wilfrid Laurier's pronouncement . . . . .	87
Is Canada indebted for defence ? . . . . .	88
The Behring Sea incident . . . . .	89
Canada's contributions and aid . . . . .	91
Colonial fiscal independence — a novel situation . . . . .	94
Study the past . . . . .	95
Freedom of discussion . . . . .	96
The Boer War . . . . .	96
Mental attitude of the clubs . . . . .	97

### RESPONSIBLE GOVERNMENT IN CANADA

Discovery of parliamentary government . . . . .	99
Development of responsible government . . . . .	99
Contest in England . . . . .	100
Why recommenced in Canada ? . . . . .	100
Contest there was between Canadians and the Colonial Office . . . . .	101
The Lower Canadian struggle . . . . .	101
Suspension of the Assembly . . . . .	103
Justification of the rebellion . . . . .	104
The Upper Canadian struggle . . . . .	104
Governor Head and "republicanism" . . . . .	106
The rebellion inexcusable . . . . .	107
Durham on Canadian grievances . . . . .	108

	PAGE
United Canada—unanimous resolution for responsible government . . . . .	109
Lord Metcalfe's opposition . . . . .	109
Concession of responsible government forced by Canada . . . . .	110
Lord Glenelg's despatch . . . . .	110
Lord Russell's speech . . . . .	111
Joseph Howe's reply . . . . .	112
Was Russell or Howe right? . . . . .	113
The future . . . . .	114

### COLONIAL DISLOYALTY

The "divine right" of Kings . . . . .	115
British monarchy regulated by statute . . . . .	117
Struggle for popular government . . . . .	118
Same struggle in America . . . . .	119
Canadians divided in opinion . . . . .	120
Sir John Beverley Robinson . . . . .	121
Parties in Canada . . . . .	122
Sir John opposed to responsible government . . . . .	122
His changed view as to American revolution . . . . .	123
Subjection of colonials, Sir John's ideal . . . . .	123
Benefit to United Kingdom of sacrifice of Canadian territory . . . . .	124
And of geographical separation of remaining provinces . . . . .	124
Exploitation of provinces thus simplified . . . . .	125
Sir John's opposition to responsible government . . . . .	126
Character of Sir F. B. Head . . . . .	127
His view of his duty, and of colonies . . . . .	128
His overthrow . . . . .	129
Gubernatorial opposition to Lord Durham . . . . .	130
Lord Metcalfe's attitude . . . . .	132
Colonial disloyalty really aspiration for self-government . . . . .	133
Complete self-government not yet attained . . . . .	134
Steps toward it . . . . .	135

### MR. CHAMBERLAIN'S PROPOSALS AND CANADA

The proposals . . . . .	137
Protection . . . . .	137
Preferences . . . . .	138
Mr. Chamberlain's insistence on free trade . . . . .	138
His change of opinion . . . . .	138
His proposal of intervention in colonial development . . . . .	138
Protection of milling in United Kingdom . . . . .	139
Canadian view of protection and preferences . . . . .	140
Indirect effect of preferences . . . . .	140
Retaliation by foreign countries . . . . .	141

## CONTENTS

ix

	PAGES
Tariff difficulty with Germany . . . . .	141
United Kingdom and Canada commercially separated . . . . .	141
Reciprocity with the United States . . . . .	143
The treaty period, 1864-1866 . . . . .	144
Statistics . . . . .	145
Summary . . . . .	146
Mr. Chamberlain's political proposals . . . . .	147
Establishment of new imperial Parliament . . . . .	148
Mr. Chamberlain's misrepresentation of Canadian desires . . . . .	148
The true Canadian attitude . . . . .	149
Bonds do not bind . . . . .	150
Mr. Chamberlain's proposal of an Imperial Council . . . . .	151
Colonial representation in imperial Parliament . . . . .	152
Mr. Chamberlain's insistence upon free trade . . . . .	152
His request for contributions to imperial defence . . . . .	153
His request for contingents . . . . .	153
Colonial replies . . . . .	154
Mr. Chamberlain's failure to appreciate colonial position . . . . .	155
Justification of that position . . . . .	156
Summary of Canada's attitude . . . . .	157
Sir Wilfrid Laurier on the military situation . . . . .	157

### IMPERIAL FEDERATION AND THE COLONIAL CONFERENCES

Imperial federation movement . . . . .	159
Imperial Federation League . . . . .	159
Its agency in summoning the first Conference . . . . .	160
Its advocacy of further Conferences . . . . .	161
Lord Salisbury's request for a scheme . . . . .	161
Report of League's committee . . . . .	162
Sir Charles Tupper's opposition . . . . .	162
Deputation to Mr. Gladstone . . . . .	162
Dissolution of League . . . . .	163
Separation of its members . . . . .	163
Chamberlain imperialists and Canadian imperialists . . . . .	164
The Imperial Federation (Defence) League . . . . .	164
The British Empire League . . . . .	164
Mr. Chamberlain <i>vs.</i> Canada . . . . .	165
Little interest shown in Canada . . . . .	165
Canada well prepared for contest . . . . .	166
Mr. Chamberlain's misconceptions . . . . .	166
His suggestions . . . . .	167
Canada's opposition . . . . .	168

## IMPERIAL DEFENCE

	PAGE
Diversity of interests . . . . .	169
Australia's situation . . . . .	169
New Zealand and South Africa . . . . .	170
Canada's happy situation . . . . .	171
Australian anxieties . . . . .	171
Mr. Deakin's reference to Pacific islands . . . . .	172
Australian defence Conference . . . . .	175
Admiral Tryon's negotiations . . . . .	175
Colonial Conference of 1887 . . . . .	176
Agreement of Admiralty and Australasia . . . . .	177
Result of the Conference . . . . .	177
Mr. Hoffmeyer's imperial surtax . . . . .	177
Conference of 1897 . . . . .	178
Mr. Chamberlain's demands . . . . .	179
Colonial dangers . . . . .	179
Contributions to the navy . . . . .	180
Colonial contingents . . . . .	180
Criticism of Mr. Chamberlain's speech . . . . .	181
Canada not supported by navy . . . . .	182
Cape Colony's contribution . . . . .	183
Australasian resolution . . . . .	183
Interchange of regiments . . . . .	184
Conference of 1902 — contributions to navy . . . . .	184
Mr. Chamberlain somewhat peremptory . . . . .	184
Colonies not doing their share . . . . .	185
Colonial expenditure if independent . . . . .	186
Contributions by all colonies except Canada . . . . .	187
Table of relative expenditure . . . . .	188
Colonies should be maritime . . . . .	188
Conference of 1902 — military defence . . . . .	188
No existing agreement . . . . .	189
Request for contingents . . . . .	190
Reply of Canada and Australia . . . . .	191
Reply of Cape Colony and Natal . . . . .	191
Suggestion of special forces for extra-colonial service . . . . .	191
Canada's objection . . . . .	191
Canada's formulated reply . . . . .	192
Between the Conferences of 1902 and 1907 . . . . .	194
Australia's dissatisfaction . . . . .	194
Senator Matheson's address . . . . .	195
Conference of 1907 — naval contributions . . . . .	196
Canada's justification . . . . .	196
Sir Henry Campbell-Bannerman's speech . . . . .	196
Modified imperial proposals . . . . .	196

## CONTENTS

xi

	PAGE
Lord Tweedmouth's acceptance of the Canadian idea . . . . .	197
Australia's dissatisfaction with money contributions . . . . .	198
New Zealand's attitude . . . . .	198
Cape Colony's attitude . . . . .	198
Newfoundland's attitude . . . . .	198
Natal's attitude . . . . .	198
Transvaal's attitude . . . . .	198
Lord Tweedmouth's speech . . . . .	199
Australia's explanation . . . . .	200
Canada's reminder . . . . .	202
Proposal for colonial expenditure "after consultation with the Ad- miralty" . . . . .	208
Canada's opposition . . . . .	208
Conference of 1907—military defence . . . . .	204
Canada's attitude upheld . . . . .	204
Various speeches . . . . .	204
The Imperial Defence Committee . . . . .	206
The General Staff . . . . .	207
Mr. Haldane's speech . . . . .	207
Sir Frederick Borden's speech . . . . .	209
Interchange of officers . . . . .	210
Interchange of regiments . . . . .	211
Summary . . . . .	212
Contribution without control . . . . .	218

### AN IMPERIAL COUNCIL

Mr. Chamberlain's proposal—1897 . . . . .	217
A Council to give advice with power of development . . . . .	217
Renewal of proposal in 1902 . . . . .	218
No response by Conference . . . . .	218
The committee of fifty . . . . .	218
Its proceedings . . . . .	218
Its repudiation of federation . . . . .	219
Its Council with "persuasive authority" . . . . .	220
Its missionaries in Canada . . . . .	220
Their failure . . . . .	220
Mr. Lyttleton's adoption of proposals . . . . .	220
Colonial replies to circular . . . . .	221
Proceedings thereupon in Conference . . . . .	222
Rejection of proposal . . . . .	223
Lord Elgin's concurrence . . . . .	223
Proposal of secretariat . . . . .	223
Establishment of new department in Colonial Office . . . . .	224



## AN IMPERIAL COURT OF APPEAL

	PAGE
"The foot of the throne" . . . . .	225
The Privy Council as a "link" . . . . .	226
Colonial "local prepossession" . . . . .	226
Uniformity of the law . . . . .	227
"One court in which all have a voice" . . . . .	228
"Common obedience to the courts of law" . . . . .	229
Colonial judges on Privy Council . . . . .	230
Conference of 1897 . . . . .	230
Mr. Chamberlain's suggestions . . . . .	231
Australian Commonwealth Bill . . . . .	231
Mr. Chamberlain's opposition . . . . .	232
His reasons . . . . .	232
Australian reply . . . . .	233
Opposition to Mr. Chamberlain in Parliament . . . . .	235
Compromise . . . . .	235
A Court of Appeal for the whole Empire . . . . .	237
Inefficiency of the Privy Council . . . . .	237
Conference of 1901 . . . . .	238
Colonial "Law Lords" proposed . . . . .	238
Colonial objections . . . . .	240
Conference of 1902 . . . . .	240
Conference of 1907 . . . . .	240
Canada's attitude . . . . .	243
Concurrence of Lord Chancellor . . . . .	243
Canadian opinion . . . . .	245
Summary . . . . .	245

## IMPERIAL SURTAX ON FOREIGN IMPORTS

Mr. Hoffmeyer's proposal . . . . .	247
Its revival at Conference of 1907 . . . . .	247
Mr. Lloyd George's speech . . . . .	248
Mr. Deakin's reply . . . . .	249
Sir Wilfrid Laurier's speech . . . . .	249
Other speeches . . . . .	250
Complaint of lack of progress in imperialism . . . . .	250
Mr. Lloyd George's reply . . . . .	251
Mr. Deakin's speech . . . . .	251
Mr. Lloyd George's resolution . . . . .	252
Other speeches . . . . .	253

## IMPERIAL PREFERENTIAL TARIFFS

Canada's relations with the United States . . . . .	255
"Reciprocity of trade or of tariffs" . . . . .	255
Sir John A. Macdonald's London speech . . . . .	255

## CONTENTS

xiii

	PAGE
Conference of 1887 . . . . .	258
Lord Salisbury's opposition . . . . .	258
New negotiations with the United States . . . . .	257
Their failure . . . . .	257
Treaties with Germany and Belgium . . . . .	258
Colonies seek denunciation of treaties . . . . .	258
Lord Salisbury's reply . . . . .	258
Canadian Parliament's offer . . . . .	259
Resolution of United Empire Trade League . . . . .	259
Mr. Bowell's visit to Australia . . . . .	259
Ottawa Conference, 1894 — Preferences . . . . .	259
Colonial Secretary's opposition . . . . .	261
His warning to colonies . . . . .	263
Canada's curious course . . . . .	265
Her preferential legislation . . . . .	266
Conference of 1897 . . . . .	266
Mr. Chamberlain's speech . . . . .	267
Resolutions adopted by colonies . . . . .	267
Denunciation of treaties . . . . .	268
Resolutions of Conferences of 1902 and 1907 . . . . .	268
Present preferential tariffs . . . . .	269
Australia's stipulation as to white labor . . . . .	270
British commencements in protection and preferences . . . . .	271
Canada's intermediate tariff . . . . .	271
Summary . . . . .	272

### IMPERIAL CABLES

Sir Sandford Fleming's suggestion . . . . .	275
Previous and present situations . . . . .	275
Canadian request of 1884 . . . . .	276
Colonial Conference of 1887 . . . . .	276
Australian Conference of 1888 . . . . .	277
Work of the <i>Egeria</i> . . . . .	277
Canadians in Australia, 1893 . . . . .	278
Colonial Office opposition . . . . .	278
Australian Conference, 1894 . . . . .	279
Colonial Conference, 1894 . . . . .	280
Necker Island . . . . .	281
Negotiations with Hawaii . . . . .	285
Cable committee of 1896 . . . . .	285
Colonial Conference, 1897 . . . . .	286
Colonial negotiations, 1899 . . . . .	287
Mr. Chamberlain's withdrawal . . . . .	287
Sir Sandford's protest . . . . .	287
Mr. Chamberlain's capitulation . . . . .	288

## IMPERIAL POSTAGE

	PAGE
Revenue of United Kingdom from post-office . . . . .	289
Canada's deficits . . . . .	289
Canadian rates, domestic . . . . .	290
Letters . . . . .	290
Periodicals . . . . .	291
Canada's offer of reduced rates . . . . .	292
Senate's resolution . . . . .	293
Canadian Press Association resolution . . . . .	294
Boards of Trade's petition . . . . .	294
Deputation to British Postmaster-General . . . . .	295
His opposition . . . . .	295
New Postmaster-General — agreement made . . . . .	296
Effect of new rates . . . . .	297

## THE ALASKA BOUNDARY

Lord Alverstone's treachery . . . . .	299
Nature of dispute . . . . .	299
Points in dispute . . . . .	300
Negotiations for arbitration . . . . .	301
Anglo-American commission . . . . .	301
Failure to agree . . . . .	302
Diplomatic negotiations . . . . .	302
Clayton-Bulwer treaty . . . . .	304
Impartial jurists of repute . . . . .	305
Arrangement between President and Senate . . . . .	305
American commissioners not impartial . . . . .	305
Canadian objection to American commissioners . . . . .	307
Colonial Office's reply . . . . .	308
Ratification of treaty . . . . .	309
Sir Wilfrid Laurier's speech . . . . .	309
The Alverstone award . . . . .	310
Compromise — why not? . . . . .	311
The inlet question . . . . .	312
The mountain question . . . . .	313
The two contentions . . . . .	313
The <i>S</i> mountains — how selected . . . . .	314
A compromise . . . . .	315
The proofs . . . . .	315
Alverstone's language . . . . .	316
Opinions of Canadian commissioners . . . . .	318
The four islands . . . . .	318
The two contentions . . . . .	319
Alverstone's decision in favor of Canada . . . . .	319

# CONTENTS

XV

	PAGE
His compromise with the Americans . . . . .	320
How he carried it out . . . . .	320
Alverstone's second judgment, with comments . . . . .	323-334
The two judgments collated . . . . .	334-340
Summary . . . . .	340
The charge . . . . .	341
Alverstone and Great Britain . . . . .	344
Sir Charles Tupper's speech . . . . .	344
Sir Wilfrid Laurier's speech . . . . .	345
Canadian commissioners protest . . . . .	345
Comment of the <i>Times</i> . . . . .	347

## THE FUTURE OF CANADA

Some change will occur . . . . .	349
Reason and sentiment . . . . .	350
The King and the King's government . . . . .	351
Present road not turning from monarchy . . . . .	352
Opposition always to Colonial Office . . . . .	352
The tug-of-war . . . . .	353
Road leads to self-government . . . . .	354
Now nearly independent . . . . .	354
What does independence mean? . . . . .	355
A British or a separate Sovereign . . . . .	356
Imperial Federation . . . . .	357
Mr. Chamberlain's schemes . . . . .	359
Commercial federation . . . . .	359
Imperial Council . . . . .	360
Imperial Court of Appeal . . . . .	361
Contributions to the navy . . . . .	362
Summary . . . . .	363
Eventuality of war . . . . .	364
Mr. Chamberlain's idea of colonial duty . . . . .	366
Independence and annexation . . . . .	367
Canadian methods of coöperation . . . . .	368
In trade, telegraphy, postal arrangements, "All-Red-Route" . . . . .	368-369
The Kingdom of Canada . . . . .	370

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## ILLUSTRATIONS

<i>The Canadian Flag</i> . . . . .	Facing 65
<i>Map of Southeastern Alaska and Part of British Columbia</i> . . . . .	" 299
<i>Map showing the Disputed Southern Boundary</i> . . . . .	" 301



## THE KINGDOM OF CANADA<sup>1</sup>

I AM very glad to have an opportunity of addressing the Canadian Club, but I find much greater gratification in the fact that there is a Canadian Club to address. Effects do not occur without causes, and it is interesting to inquire into the meaning of the somewhat sudden rise of these clubs, of this phenomenal desire for the study of our political situation, of this simultaneous eagerness for enlightenment with reference to the problems that confront us.

To my mind the explanation is very simple. Canada has commenced to realize herself, to believe in herself, and to recognize that for her, too, there is a principal part to play upon the stage of the world. Canada has become conscious of the feelings and aspirations and the strong strivings of strenuous manhood, and, on the other hand, of the utter impossibility of full expression and assertion in mere colonial status. Divine discontent (the necessary pre-condition of all improvement), in regard to her political semi-servitude, has taken strong hold upon Canada, and she is taking stock, and extending the figures, and considering where she now is, and what her future is to be.

In my opinion that is the meaning of these clubs; not social clubs are they, nor political, but student clubs; meetings, at short intervals, of serious men for the purpose of helping one another to resolve those problems of national life which are now pressing themselves upon us. Every true Canadian has

<sup>1</sup>The substance of the above article was delivered as an address to the Canadian Clubs of Toronto and Ottawa in 1904.

recently found himself engaged in meditation upon such questions, and I am to-night to give you such reflections as seem to me to be of chiefest importance for our consideration. My conclusions may not be concurred in by all, but possibly what I say may be of some assistance in the formation of more correct opinion.

*Prophecies.* — The fathers of federated Canada delighted to proclaim that their offspring was to be a nation, and they did not hesitate to assign to it, prophetically and proudly, its place and order among the nations of the earth.

The Hon. Adams G. Archibald (N.S.) said that the united provinces "would form a nation which in all the elements that constitute real greatness might be ranked as the third or fourth on the face of the globe" (Whelan, p. 11).

Lieutenant-Colonel Gray (N.B.) said that they "wanted a national union, one which would enable them to take an honorable place among the nations of the earth" (*Ib.* p. 102).

The Hon. Charles Fisher (N.B.) said that the federation "would be the fourth maritime power in the world. England, France, and the United States would alone be superior to it" (*Ib.* p. 173).

Sir George E. Cartier (Que.) said that the delegates had "met to inquire whether it were possible for the provinces, from their present fragmentary and isolated materials, to form a nation or kingdom" (*Ib.* pp. 9, 10).

And Sir John A. Macdonald (Ont.) said that the delegates had in view "the noble object of founding a great British monarchy, in connection with the British Empire, and under the British Queen" (*Ib.* p. 45). "I am," he said, "a subject of a great British-American nation, under the government of Her Majesty, and in connection with the empire of Great Britain and Ireland" (*Ib.* p. 47). "Confederation," he added, "would give them the national prowess and strength which

would make them at least the fourth nation on the face of the globe" (*Ib.* p. 8). He preferred for the title of the new confederation "The Kingdom of Canada," and he desired an imperial alliance with the kingdom of Great Britain and Ireland, with the Crown as the sufficient bond of union (3 *Imp. Rev.* p. 416). At another time Sir John Macdonald said that the new constitution "was intended to be, as far as circumstances would permit, similar to that of the imperial government, and recognizing the Sovereign of Great Britain as its sole and only head" (Gray, p. 55).

In accordance with these ideas a draft of the Federation Bill spoke not of the "Dominion of Canada," but of the "Kingdom of Canada" (Pope, "Confederation Documents," p. 181), and Mr. Pope tells us that "Mr. Macdonald made every effort to retain the phrase," but it was changed (as Sir John himself wrote to a friend) "at the instance of Lord Derby, the Foreign Minister, who feared that the word 'kingdom' would wound the susceptibilities of the Yankees" ("*Life of Sir John A. Macdonald*," vol. I, p. 313). What a blessed thing it is that Providence in His infinite mercy so bountifully provides these English lords with grace and tact and liberality sufficient to keep our neighbors in such excellent good humor. I sometimes wonder if there is not a shade of contempt in the smiles with which our surrenders are accepted.

The founders of our federation, then, desired that Canada should be a "nation." They wished to be "subjects of a great British-American nation," styled "The Kingdom of Canada," with the British queen for their sovereign. Gentlemen, is not that what we still desire, and that which we must still diligently seek after?

And well, sir, might the patriotic aspirations of these great men rise to such a height. In population the provinces almost equalled that of the thirteen states when they declared



for an entirely separate existence. As the Hon. George Brown pointed out, there were forty-eight sovereign nations in Europe, and thirty-seven of them (including Portugal, Holland, Denmark, Switzerland, Saxony, Hanover, and Greece) had less population than united Canada; and Sweden and Norway, Belgium and Bavaria had very little more.<sup>1</sup> Was it not time, then, thought these men, that British North America should take on the dignity and importance, the privileges and responsibilities of nationhood, with the queen for their sovereign, and in alliance with the United Kingdom?

*Nation or Colony?*—Once again in our history has it become somewhat fashionable to speak of Canada as a nation. Sir Wilfrid Laurier would educate us to the use of the word, and it was his government that suggested that the words "King of Canada" should be one of the King's titles. Lord Rosebery proposed that instead of "King of all the British Dominions beyond the Seas," it should read "King of Britains," because, he said, "It takes away from the title any sense of colony or dependency, which I think all who wish well to the Empire must be anxious to remove" (Hansard, 1898, 4th Sess., p. 528). Mr. Chamberlain speaks of us and our congeners as "sister states." Kipling, too, renounces the depreciatory term, and bids us be nations (Reinsch, p. 270). And, finally, the Marquis of Lorne, just before leaving Canada, said to us, "You are not the subjects, but the allies, of a great country, the country that gave you birth." (Reply to farewell address by Commons.)

But in spite of poetry and all declamation, we are not a nation; although what we are exactly is a little difficult in a word to express.

The editor of Sir George Cornwall Lewis's "Government of Dependencies" would scientifically describe us as a pro-

<sup>1</sup> Whelan, p. 32.

tectorate; for, as is well known, a protectorate implies personal supervision of foreign affairs, rather than political incorporation, or physical dominion (Reinsch, p. 100). In this view protector and protectorate is the beginning and ending of political paternal association. An empire may declare a protectorate, for example, over Uganda; elevate it afterward to a Crown colony; then to a colony with legislative powers, but no responsible government; next to a self-governing colony; and when the power of self-government is complete, Uganda would again become a protectorate, having mere personal relation once more with the dominant state. But Canada is not a protectorate, for she is still under tutelage.

More frequently Canada is thought of as a self-governing colony; but we resent the "colony," and are unable to allege complete powers of self-government. There is no category in which, strictly speaking, we can be placed; and I desire for two purposes to ask you to inquire with me to-night into the precise nature of the relation which at the present moment exists between us and our political associates: first, that we may clearly understand what that relation is, and, second, that, so understanding, we may the more readily and intelligently envisage the future.

From among the many different definitions of a nation, we may select as common to the most authoritative of those referring to its political rather than its ethnographical signification, the condition that it "is a complete, or self-sufficient body of free persons" (Grotius); that it is "self-existent, autonomous, and sovereign" (W. P. Johnston); and that it is "capable of maintaining relations with all other governments" (Field, "International Code," 2d ed., p. 2. See Morse, "Citizenship by Birth and by Naturalization," p. 3). Canada's political position, I regret to say, falls very far short of these requisites of nationality.

A good book on colonial government (Reinsch, p. 16) defines a colony, on the other hand, as "an outlying possession of a national State, the administration of which is carried on under a system distinct from, but subordinate to, the government of the national territory." And that somewhat exactly describes our position.

We are a colony, then, but we do not like the word. We feel that it carries with it a flavor of inferiority. And so it does. Emigrants are principally of the proletariat class. Comparatively few of the bourgeoisie, and practically none of the wealthy or highly cultured, leave the old shores. Colony implies inferiority — inferiority in culture, inferiority in wealth, inferiority in government, inferiority in foreign relations, inferiority and subordination. "Colonization," as Reinsch (p. 14) has it, "implies the exertion of influence by a higher civilization upon one of a lower order." We recognize the implication, and therefore dislike the term.

*A Self-governing Colony?* — But we are, nevertheless, a colony; and the books would have it that we are a self-governing colony. Is that true? And, if not, to what extent are we under authority?

All the power which we have comes from a statute passed at Westminster. It does not depend in any way upon our own declaration. The authority of the Parliament of Great Britain, of France, Germany, Italy, the United States, and so on, is all self-asserted. Ours is a gift from a power outside of us, the gift of the Imperial Parliament.

And the Parliament which gave, can take away, or change, as it pleases. We are not sovereign. We are subordinate. We are not a nation, but a colony. Our Parliament is a legislative, but not a constituent, body (Bourinot, in Hodgins, "Dominion and Provincial Legislation," p. 1315).

*Constitutional Limitations.* — More important than the

derivation of our powers is the answer to the question: What powers have we?

If Canada wished to have biennial instead of annual Parliaments, she could not so enact. If she wanted to take her census every twelve years instead of ten, she would be powerless to make the change. If the Maritime Provinces wished to unite and become one province, they would be advised that it was impossible. If Canada desired to increase the membership of her Senate, or to decrease the qualifications for it, or even to change the quorum of the House of Commons, her power would be found to be inadequate. The right to make her own coins is forbidden by express statute. Over such a comparatively trifling matter as the procedure to be adopted in appropriating her own money, Canada has no authority. And such a necessary change of the capital city as that from Ottawa to Winnipeg (I speak as a Winnipegger) cannot be accomplished by unanimous vote of our Parliament, our legislatures, and all our people. Westminster can do these things for us. We cannot do them for ourselves. Self-government as to such and many other matters simply does not exist.

Observe some of the points that have actually arisen. Four years after Federation, doubts were entertained as to the power of Canada to establish new provinces in the North-West Territories, and to provide for their representation in Parliament. Westminster was appealed to, and an Act was passed there supplementary of our constitution.

In 1869, doubts arose as to the power of Canada to appoint a deputy to the Speaker of the Senate, and an imperial statute was enacted to declare that it might be done.

In 1873, Canada passed a statute providing for the examination of witnesses upon oath by committees of the Senate and House of Commons; but it appeared that Canada had

no power so to enact. Westminster came to our assistance, and we are now permitted to legislate in reference to the "privileges, immunities, and powers" of our Senate and House of Commons, provided we do not go beyond those "held, enjoyed, and exercised by the Commons House" at Westminster at the date of our legislation. We must do as they do, or do nothing at all.

In 1875, a Canadian statute, with reference to such a domestic matter as copyright within our own limits, was held to transcend our authority; and Westminster had again to be appealed to.

In 1878, our Parliament passed a bill with reference to the amount of space occupied by deck cargoes liable to tonnage dues. But Parliament exceeded, it was said, its power in legislating for all ships in Canadian waters. It should have confined itself to Canadian ships, and other ships were held unamenable to our legislation even while in our own waters (Hodgins, 58 d).

In 1886, Canada wished to add to her Senate some representatives from the North-West Territories, but she was powerless, and assistance once more had to be sought for at Westminster.

Concluding this enumeration, let me add generally that every law which we may think necessary to enact, but "which is or shall be repugnant to the provisions of any (Imp.) Act of Parliament extending to the colonies," is declared by imperial statute to "be and remain absolutely void and inoperative" to the extent of such repugnancy (Col. Laws Validity Act, 1865).

*Our Coasting Trade.* — A good example of this sort of limitation can be found in the former customs laws, by which the colonies were deprived of the power to impose protective duties upon British goods. We were not permitted to give

any benefit or preference to our own manufacturers or producers. That limitation may be thought to belong to a colonial policy now happily abandoned, but we have it still in the Imperial Merchant Shipping Act, 1894, by which authority is given to colonial legislatures to regulate their own coasting trade, upon the express condition that they must "treat all British ships (including the ships of any other British possession) in exactly the same manner as ships" of their own (sec. 736). In other words, Canada is powerless to give preference or protection to her own ships, engaged in her own coasting trade.

Thus far, then, we have arrived at these points:

1. No Canadian legislation, even with reference to local affairs, can contravene any Westminster statute extending to Canada.

2. Even in the absence of any such contravention, Canada is impotent in very many respects.

This second statement must, however, be dealt with more fully, and various illustrations of our limitations given, in order that its extent may be fully appreciated. Let these further points, then, be noted.

*Extra-territoriality.*— In the fact that Canada's powers are prescribed by statute, and that she is not a nation but some sort of a subordinate dependency, there is involved the strict limitation of her legislative jurisdiction to her own geographical boundaries. Sovereign nations are not so circumscribed. In this respect the Dominion of Canada is upon a level with the individual states of the American Union, and has not the power of Congress at Washington. Judge Cooley's remarks as to individual state powers applies equally to Canada:

"The legislative authority of every state must spend its force within the territorial limits of the state. The legislature

of the state cannot make laws by which people outside of the state must govern their actions, except as they may have occasion to resort to the remedies which the state provides, or deal with property situated within the state. It can have no authority upon the high seas beyond state lines, because there is the point of contact with other nations" (p. 149).

And not merely upon the high seas have we no authority, but we are powerless to punish a man who is living in Canada for what he may have done beyond the border. Known criminals may reside here unpunished for their crime, so far as our laws are concerned, because we have not the legislative power of Denmark, or Belgium, or any of the hundred sovereign states of the world.

Observe some of the workings of this principle of legislative limitation. A native of Canada and resident there has half a dozen wives whom he married in the United States, and he brings them in turn to live with him in Toronto, and we cannot punish him for his bigamy (*Macleod v. Attorney-General*, N.S.W., 1891, A.C. 455). There are thousands of Mormons in our North-West Territories, thousands more are coming, and Canada cannot condemn them as bigamists, for their offences were committed outside of Canada. (Consult *Reg. v. Brierly*, 1887, 14 Ont. 525; *Reg. v. Plowman*, 25 Ont. 656; *re Criminal Code*, 1897, 27 S.C. p. 461.)

Take another case: Affidavits are frequently used in Canadian courts, and one might think it reasonable that we should have power to punish, for perjury, any one who in any such affidavit swore to that which was false. But we cannot do so if the affidavits are sworn to outside our own boundaries, even when the deponents are British subjects and domiciled in Canada. For example, if a resident of Windsor swore to the falsehood in Detroit, instead of upon this side of the river, he might win his suit here, and yet be free, so far as we are

concerned, of all charge of perjury (Dom. St., 32 Vic. c. 26, objected to and amended 32-33 Vic. c. 23, s. 3).

Our legislative subordination may be illustrated by two other cases: An imperial statute provided that affidavits made in Great Britain should be received in Canadian courts; and, of course, we had to receive them, although it was contrary to our practice to do so (*Gordon v. Fuller*, 1836, 5 U.C., O.S. 174). But it would be quite out of the question that we should enact that affidavits made in Canada should be received in English courts; and just as much out of the question that we should presume to punish the makers of the English affidavits for perjury if their assertions were false.<sup>1</sup>

Upon similar principle, British bankruptcy proceedings have certain effects in Canada, while similar proceedings in Canada have no corresponding effects in Great Britain. For example, lands in Canada will vest in an English registrar in bankruptcy by virtue of the Bankruptcy Acts, but no Canadian law could have any effect upon a bankrupt's land anywhere outside of Canada (*Callender v. Lagos*, 1891, A.C. 460). So, too, a British discharge of the bankrupt is effective throughout the Empire, whereas a discharge in Canada has no effect whatever in Britain. One British judge said that "it might as well be said that the laws of the state of Maryland would apply here." Another said that the colonial law "has the same force here as the law of a foreign country has" (*Bartley v. Hodges*, 1861, B. and S. 375).

*Naturalization.* — The principle under discussion has very remarkable application to the subject of naturalization of aliens; for, while we can turn an alien (an American, for

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<sup>1</sup> In the same way an imperial statute may provide that British medical men shall be permitted to practise their profession in Canada; but Canada could give her citizens no status in the United Kingdom or elsewhere (*Reg. v. College of Physicians, etc.*, 44 U.C., Q.B. 566).



example) into a "British subject within Canada" (R.S. Can., c. 113, secs. 25, 26), and so give him "British nationality within Canada" (*Ib.* sec. 28), we cannot affect his status in other parts of the Empire or the world. As Mr. Clement says,

"No legislation by the Parliament of Canada can make an alien a British subject, quoad the Empire; it can do no more than give him, within the confines of the Dominion, the privileges, or some of the privileges, of naturalization" (2d ed., p. 230).

For similar reasons, Canadian legislation

"cannot visit upon natural born British subjects, resident in Canada, any penalty for acts committed without the Dominion, for without the Dominion they are — quoad Canada — British subjects only, and their status as citizens of Canada is nought" (*Ib.* note).

There results from all this, the curious fact that an American naturalized under Canadian law becomes a "British subject within Canada," and, therefore, ceases to be an American citizen; but outside of Canada he has no new status. He has sworn allegiance to His Majesty "as lawful Sovereign of the United Kingdom of Great Britain and Ireland and of the Dominion of Canada," and has consequently repudiated his former allegiance to the United States; but his new situation is not that of a British subject, but that of a "British subject within Canada." He is, perhaps, the truest Canadian of us all.<sup>1</sup>

*Treaty-making.* — Closely associated with the question of extra-territorial power is the subject of treaty-making. Much confusion and misunderstanding exist with reference to it, principally because a very necessary division of the subject is not made. If we distinguish between war treaties, commercial treaties, extradition treaties, and settlement-of-dispute treaties, it becomes clear.

<sup>1</sup> Upon this subject see *Canadian Law Times*, April, 1905.

War treaties we have nothing to do with, nor, indeed, save indirectly, has the British Parliament anything to do with them. They are made by the imperial government, by His Majesty in Council, in which we have no representative, and over which we exercise no influence. If Mr. Balfour declared war against France to-morrow, Canada would be at war with France, and would remain so until the British government brought it to a close. We would have nothing to do but fight; possibly doing some of it amongst ourselves.

Until recently our commercial treaties were made for us, and when the United Kingdom entered into an arrangement with a foreign country, we were, as a matter of course, included. When Canada's foreign trade had very largely expanded, more particularly when the trading world (with the exception of the United Kingdom) entered upon a system of protective and preferential tariffs, and when Canada's commercial policy had thus become quite inconsistent with that of the United Kingdom, a separation of foreign relations became imperative, and a consequent change in methods of negotiation ensued.

Our commercial separation commenced with the abrogation of the navigation laws and the abandonment of all claim to impose taxation upon our trade. It was emphasized, in 1879, in most marked fashion by our adoption of the protective system, and the consequent partial exclusion of British manufactures. And it was all but completed in 1898, when we succeeded in freeing ourselves from the German and Belgian treaties, which the United Kingdom had made for us without our assent, and, as they said, by an oversight.

In 1878, we obtained a declaration from the British government that for the future no commercial treaty would be made by which Canada should be bound, unless she herself assented to it (Eng. Blue Book, Commercial, No. 5, 1903;

Can. Sess. Pap., 1892, No. 24, p. 7). The German and Belgian treaties had been made before that date, but they are now gone, and we are free for the future from any commercial treaty obligations other than those of our own making.

More than that, in the negotiation of any such treaty we now (thanks to Sir Charles Tupper) take the leading part. The present practice is to associate a Canadian statesman with a British representative, and to intrust the practical work to the Canadian, while requiring the agreement to be signed by both. The other day Sir Wilfrid Laurier, somewhat to the astonishment of Mr. Chamberlain, carried on negotiations at Ottawa with the German consul at Montreal, without the leave or knowledge of anybody but his own colleagues. We have been accustomed for many years to enter into postal conventions with foreign countries upon our own responsibility, because no one had any interest in them but ourselves (see Statutes, Can., 1880, VII). For the same good reason, the settlement of tariff treaties (call them conventions if you like) should be entirely and completely in our own hands.<sup>1</sup>

Extradition treaties are at present made by the imperial government. There being no diversity of interest between us and the United Kingdom, Canada has so far acquiesced in this qualification of her authority. It is in no sense, however, an imperial matter, and Canada ought to be in a position to make her own arrangements with reference to criminals who seek refuge within her own borders.

The fourth class of treaties, namely, those relating to the settlement of disputes which we may have with any foreign country, is not in such a satisfactory position, and the situation in its application to the Alaska case has led to the assertion by Sir Wilfrid Laurier of a desire for greater control. I need

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<sup>1</sup> Negotiations of the French commercial treaty (1907) since the delivery of the above address were conducted by Canadians alone.

not detail the facts or discuss the result. For myself, I say merely that truckling, like everything else, may develop into a habit; like many another habit, it is a bad one; and that the sooner it is stopped the better. The Marquis of Lorne's declaration, "You have the power to make treaties on your own responsibility with foreign nations" (*supra*), is not quite accurate. It ought to be well founded.<sup>1</sup>

*Summary.* — Summarizing thus far, we have ascertained (1) that Canada holds her power as the gift of a Parliament which may augment, diminish, or abolish it, at will; (2) that she has no power at all over a great variety of subjects; (3) that she has no part in the declaration of war or peace; (4) that, practically, she can make such commercial arrangements with foreign nations as she pleases; (5) that extradition treaties are made for her; and (6) that her situation with reference to settlement-of-dispute treaties is unsatisfactory. But our survey of Canada's powers is yet incomplete, for we have still to notice the control which our Federation Act gives to Downing Street over those subjects of legislation which are within our legislative jurisdiction. Even as to them we are far from sovereign.

*Dissent and Disallowance.* — This control is exercised in two ways: (1) Parliament, with its two hundred and ninety-eight members, may unanimously pass some measure, and the Governor-General may refuse to assent to it; or (2) the Governor may assent, and yet, afterwards, and at any time within two years, Downing Street may disallow it.

By one or other of these methods, many purposes of the Canadian Parliament have been thwarted; not only when the interests involved were of large importance (coinage, for example), but also when they were almost of a private and

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<sup>1</sup> Upon this subject see Quick and Garran, "The Annotated Constitution of the Australian Commonwealth," p. 634.

personal nature, such as the attachment of the salaries of government officials for payment of their debts, or the grant of a charter to Bytown, or a divorce to Mr. Harris. These instances were prior to Federation; but since then, among other cases, a statute of Canada fixing the Governor-General's salary at £6500, was disallowed, because Downing Street's opinion as to a proper amount differed from that expressed by Parliament (Hodgins, p. 6. This in 1868. See later Act, 1869, c. 74, assented to).

*Governor-General's Power.* — In other contests with Downing Street we have been more successful. It was asserted by Lord Carnarvon, for example, that the Governor-General personally, and not upon the advice of his ministers, was intrusted with the power of disallowance of provincial statutes. In other words, that the Governor-General, of his own motion, and contrary to the advice of his ministers, could veto provincial legislation. We are indebted to Mr. Blake for the overthrow of that idea (Blake's Memo., Dec. 22, 1875).

Similar contention was made with reference to the pardon power — that it was a prerogative of the Crown; that the Governor-General represented the Crown; and that, therefore, Canadian ministers had nothing to do with the matter. Mr. Blake successfully combated that notion, too, and the next Governor's instructions (Lord Lorne's) enabled our own men (except in rare instances) to control the pardons of our criminals.

More recently (1900) a number of commissions in the imperial army were offered to Canadians. Nomination of the candidates was intrusted to Lord Minto, and our government was asked to act as an unofficial advisory committee. But the ministers declined to make recommendations "subject to final approval" by the Governor-General, declaring "that if they were to be responsible at all, the usual rule

governing ministerial responsibility should prevail" ("The Canadian Contingents," by Sandford Evans, p. 315).

*Copyright.* — The most notable instance of Downing Street interference with Dominion legislation is that relating to copyright. One would imagine that a nation, even of the one hundred and fourth rank, would have complete control over such a matter as the right to sell books within its own territory, but Canada has no such power, and although it has been promised again and again, Canada cannot get it.

The trouble commenced with the imperial statute of 1843 (5 & 6 Vic. c. 45), which, as Sir John Thompson said, "was immediately attended with great hardship and inconvenience in the North American colonies" (Sess. Pap., 1892, Vol. 12, No. 81), and was assailed with vigorous protests. In 1875 and 1890, some slight ameliorations of the situation were obtained, but Canada has never yet been given complete control of the sale of books within her own territory.

In 1846 Lord Grey acknowledged that British interference was indefensible, and announced that "Her Majesty's government proposes to leave to the local legislatures the duty and responsibility of passing such enactments as they may deem proper, for securing both the right of authors and the interests of the public" (*Ib.*).

In his despatch of the 31st of July, 1868, the Duke of Buckingham and Chandos declared to the Governor-General that "the anomalous position of the question in North America is not denied" (*Ib.*).

In 1892, in a most elaborate report, the imperial departmental officials said, "Admitting, as we must, that the present state of the Canadian law is unsatisfactory," etc. (Sess. Pap., 1894, Vol. 25, No. 50, Can.).

Lord Cranworth, in his judgment in *Low v. Bouverie* (L.R. 3 H.L. 100), said, "That His Majesty's colonial subjects

are by the statute deprived of rights they otherwise would have enjoyed, is plain."

Mr. Justice Moss (*Smiles v. Belford*, 1 Ont. App. 436) puts the matter fairly and tersely when he says that the effect of the law "is to enable the British authorities to give an American publisher a Canadian copyright."

To remedy this state of affairs, the Canadian Parliament passed a bill in 1889. But it remains inoperative to-day, because Downing Street so decrees. Sir John Thompson fought vigorously for his country, and his two able and exhaustive memoranda upon the subject ought to have resulted (but did not) in something better than inquiries and reports acknowledging that the "state of the Canadian law is unsatisfactory." In these documents, Sir John Thompson demonstrated (and it was not, and could not be, denied) that the "present policy" resulted in "making Canada a market for American reprints, and closing the Canadian press for the benefit of the American press"; he declared that the belief was growing that "the present state of the law is odious and unjust"; he requested that, after so many promises and such long delay, "some step in advance should be taken toward removing Canadian grievances, beyond the mere routine of inquiries, reports, and suggestions," and he demanded that Canada be permitted to withdraw from the Berne Convention, for, as he said, "Canada has been repeatedly assured that her continuance in any treaty arrangements of this kind would be subject to her own desire to withdraw at any time on giving the prescribed notice."

Sir John's language was of the outspoken sort, and displayed not a little impatience. But Downing Street was unmoved. The history of its misdoings was properly labelled and filed, and the "regrettable incident" was thus brought to a victorious close.

Were we not becoming perfectly accustomed to it, we could hardly believe that in the Imperial Departmental Report (just referred to) one of the principal reasons assigned for declining to sanction our legislation was that it "would at least be open to the charge of being inconsistent with the declaration as to the law of the United Kingdom and the British possessions which was made to the United States last year." That is to say, because Lord Salisbury "last year" quite correctly informed the United States what the law then was, and because the United States may have acted upon that statement, therefore Canadian law must forever remain in an "unsatisfactory" state, and the British author must always be permitted "to give an American publisher a Canadian copyright."

Having to argue against such irritating nonsense and truckling obsequiousness as that, I do not wonder that Canada's Premier displayed a little impatience. I marvel at his moderation; and I renew his demand that Canada shall have complete control over the sale of books within her own territory.<sup>1</sup>

*Litigation.* — Canada legislates for half a continent. She regulates a foreign trade of about a million and a half of dollars a day. She has established a banking system that is probably the best in the world, and the capital of her chartered institutions exceeds \$75,000,000. She has over a million children at school, and an army of nearly 30,000 teachers to instruct them. She writes about 80,000 letters every day. She has a railway trackage of 19,000 miles, and carried last year 22,000,000 passengers and nearly 50,000,000 tons of freight. She smokes some 8,000,000 pounds of tobacco in a year, and she continues to walk fairly correctly under an annual

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<sup>1</sup> Upon this subject see *Low v. Bouverie*, L.R. 1 Ch. 42; Hearn, "Government of England," 2d ed., p. 597; Quick and Garran, "The Annotated Constitution of the Australian Commonwealth," p. 348.



load of 15,000,000 gallons of liquor. But she is not permitted to settle her own lawsuits. When in 1875 we established our Supreme Court at Ottawa, we were compelled to forego that power. The authority that France gives to Algeria, and that all the midget states of the world possess, is too great to intrust to Canada. Australia asked for it when, more recently, her commonwealth charter was under discussion. But in vain. Colonists — self-governing colonists, they are called — are not allowed to settle their own lawsuits. The Malay States can do that much.

And what is the result? The principal effect is that Canada is forced to develop according to the ideas of a body of men out of touch and sympathy with Canadian methods and notions, instead of being expanded according to the genius and the wishes of Canadians themselves. Upon a subject of this sort it behooves a Canadian barrister to speak with reserve and respect. I shall, therefore, make use of the language of an English King's Counsel, Mr. Haldane (than whom no man outside of the Privy Council itself can speak with greater authority), taken from his eulogy of Lord Watson, one of the ablest men who ever sat upon the Judicial Committee:

“He was an imperial judge of the very first order. The function of such a judge, sitting in the supreme tribunal of the Empire, is to do more than decide what abstract and familiar legal conceptions should be applied to particular cases. His function is to be a statesman as well as a jurist, to fill in the gaps which Parliament has deliberately left in the skeleton constitutions and laws that it has provided for the British colonies. The imperial legislature has taken the view that these constitutions and laws must, if they are to be acceptable, be in a large measure unwritten, elastic, and capable of being silently developed, and even altered, as the colony develops and alters. This imposes a task of immense importance and difficulty upon the Privy Council judges, and it was this task

which Lord Watson had to face when some fifteen years ago he found himself face to face with what threatened to be a critical period in the history of Canada."

After referring to the Canadian cases, and to the decisions of the Canadian courts, Mr. Haldane adds:

"Great unrest was the result, followed by a series of appeals to the Privy Council, which it was discovered still had power to give special leave for them, was commenced. . . . Lord Watson made the business, of laying down the new law, that was necessary, his own. He completely altered the tendency of the decisions of the Supreme Court" (*Juridical Review*, 1899, p. 279).

I am inclined to think, gentlemen, that there is something in this statement that is not very pleasant reading for Canadians; my only remark upon it is that if there is work for statesmen to do in the development of our constitution, we ought to do it ourselves.

Leaving aside these constitutional cases, may I not say that there is, if possible, still less justification for Privy Council intervention in our everyday actions. Lacking local knowledge, and all those shades of feeling and points of view which life in Canada alone can give, the Privy Councillors are, as I think, unable to appreciate some of the arguments which, to a Canadian, are full of significance and meaning. For example, how can men, who have no experience of our systems of land registration, learn sufficient in one argument to decide difficult points involved in their practical working? How is it possible for men who are engaged one day upon Hindoo law, another upon Burmese law, and the next upon Singalese law, and so on, to deal satisfactorily, not only with Quebec law, but with the Torrens system of land registration? Professor Dicey's book, for example, on "The Law of the Constitution," is the best work on the subject; but what colonial

lawyer could read it without observing mistakes relating to colonial law? Although Reinsch is nearer to us geographically, yet he, too, stumbles badly when referring to Canadian law. The article by Lord Thring in the March number of the *Nineteenth Century* furnishes another example of the same thing.

But whether these Privy Council judges can or cannot appreciate our cases, I, as a barrister and a Canadian, decline to admit that Canada, with her six millions of people, is not as able as the United States was, with its three and a half millions, and as the United States is to-day, with its eighty millions, or as Algeria is, to decide her own lawsuits.

And even if it could be proved that Canadians are unfit to settle their own quarrels, I would object to the degradation involved in the admission of it, and I would contend that it would be better sometimes to make mistakes (the Privy Council makes lots of them) than to be kept forever in leading strings. If we cannot settle our own lawsuits, let us learn to do so by trying.

*The Future.* — We have now finished our survey of parliamentary and judicial power in Canada, and the picture is sufficiently humiliating. I agree with Dr. Parkin in saying that

“if the greater British colonies are permanently content with their present political status, they are unworthy of the source from which they sprang” (“Imperial Federation,” p. 12, and see p. 31).

What are we going to do about it? It seems to be taken for granted that there are but three alternatives before us, — independence, annexation, and stay as we are. I venture to suggest a fourth, namely, to go on as we have been going.

Almost every step in Canadian political history has been toward greater legislative freedom. Every step has been

taken with difficulty, and in the face not only of Downing Street opposition, but, strangely enough, of objection and resistance from many Canadians. Every step has been denounced as involving, or tending toward, a separation from British connection. And yet (mark this), every step has but served to strengthen the tie. Lord Thring says truly (in the article already referred to) that "the history of imperial union shows that as the legal ties are slackened, the moral ties are tightened." The Canadian rebellion was not in the present century, when our freedom is greatest; and our contingents did not enlist for foreign service in 1837, when we had British connection up to the hilt. What is the meaning, then, of these objections from our own people to the extension of our own legislative power?

*British Connection.* — The answer is very simple, but is almost universally missed. Clearly define what you mean by British connection, and all becomes clear. Very erroneously it is assumed to imply legislative subordination: a relation of superiority upon the one side and inferiority upon the other, of leadership and obedience, of control and subjection. And if that be correct, then it is true that every step toward legislative freedom is a subtraction from British connection, and it is also momentarily true that very few more steps will end it.

Possessed vaguely of this notion, many excellent Canadians struggle strenuously against Canada's legislative emancipation. They regard with the greatest anxiety the snapping of each tie, as they call it, not understanding that their ties are mere worrying bits of annoying hindrances to cordial relationship. I resent, and have always resented, these irritating "Don'ts" and "Mustn'ts," with which Lord This or That, from time to time, reminds us of our subordination. And I am not in the least appeased when told that it is good

for us, and that Downing Street knows better than we do. An American gets more respect in London than a colonist. In my opinion, he is entitled to it.

*Independence.* — Having, gentlemen, some experience of this rather rigid sort of arguing, I feel that some one wants to break in upon me at this point, and say, "Very well, then you are in favor of independence." To which (risking exasperation) I reply, "Define your term, and I shall answer you." If you mean legislative independence—power to regulate the sale of books in our own territory, to settle our own lawsuits, to make our own five-cent pieces and our own commercial arrangements, I say, "Yes, I advocate independence," and in return I ask, "Do you advocate dependence, and if so, for how long?" Until we are ten millions, or twenty-five, or fifty? Or have we earned an imprescriptible right to eternal dependence?

But if by independence you mean separation from the British Crown, and the election of a new King, or President, I answer, "No, I do not advocate independence." Let us go on as we have been going. We have been advancing toward legislative freedom. Let us advance. We have stood still upon our allegiance to the British Crown. Let us still stand steadily there.

British connection, sir, does not involve, or depend upon, subjection or subordination. If it did, I, and all lovers of Canada, would, or ought to, set ourselves firmly against it. This notion, that we are not to govern ourselves, in every widest and minutest particular, is becoming absolutely intolerable to vast numbers of Canadians, and by our rapidly advancing development will soon be an anachronism and an absurdity. British connection has no relation whatever with paternalism; and there will be no truest British connection until paternalism is forever finished and sent to limbo.

Instead of the too prevalent self-distrust, self-disparagement, and self-renunciation, I venture to preach to my fellow-countrymen another doctrine, and to hold out to them a better future. Canada's Parliament shall be as omnipotent as that at Westminster. The King's Canadian ministers shall advise him upon all things Canadian, with the same constitutional authority as British ministers advise their Sovereign upon all things British; our own men shall decide our own lawsuits, and command our own forces; and our own money shall provide for our own defences, and for such mutual aid as we ourselves may approve.

I adopt Colonel Denison's language as a short expression of my views: "Independence within the Empire." But by "independence" I mean independence, not merely the amount of it which we have at present. I mean that we are to be as independent as the United Kingdom itself; that our Parliament shall be as omnipotent (subject to such safeguards as we ourselves, and for our own purposes, impose) as the Parliament at Westminster; that Downing Street shall have no more control over our legislation than Parliament Hill at Ottawa has over British statutes; that, even as Sir Elzear Taschereau and his colleagues exercise no supervision over British litigation, so also the Privy Council shall cease to interfere with ours; in short, that we shall be a nation, "self-existent, autonomous, sovereign," and "capable of maintaining relations with all other governments."

*Imperial Federation.* — But if so, what about Imperial Federation? Is that to be given up? Once more (this is one of my fads), I ask for definition. What do you mean by federation? We have a federation here of our own. It consists of a number of individual states with local legislatures, and a federal union, with a common Parliament possessed of very extensive jurisdiction. There is a federation to the

south of us, and a federation in Germany, and another in Switzerland. In all of these the distinctive feature is local state legislatures and a federal Parliament. Now, is that what you mean by federation of the Empire? If so, I am opposed to it, and so, I think, are you. If there is to be a federal legislature, there must necessarily be assigned to it some subjects in respect of which it may legislate. But Canadians are absolutely determined that for the future they are going to make all their own laws. With immense difficulty we have acquired that right in almost complete form. And "what we have we'll hold." None of it shall go back to Westminster or to Downing Street. Our federal legislature is at Ottawa, and there it shall remain. There is, therefore, nothing for any Imperial Federal Parliament to do; and Imperial Federation without an Imperial Parliament remains, as it always was, a dream.

The only other sort of federation (and I would not give it that name) is that in which each state is absolutely complete in itself, but has an arrangement, either organic or otherwise, with some other state for coöperation in certain prescribed spheres. If we made a reciprocity treaty, for example, with the United States, for ten years, we would for that period give up our right to legislate in derogation of our agreement, but we would not the less be a nation; and the United States and Canada would not be a political federation. And in the same way, if we arranged for war coöperation with the United Kingdom, and constituted a Council, or (as in Austro-Hungary) delegations, with necessary authority in that respect, we, as also the United Kingdom, although bound by our agreement, would be sovereign states; and no more, because of our agreement, would we be politically federated than are Britain and Japan to-day, or France and Russia.

But, in addition to this association for mutual help in time

of war (which might form a very important part of our national arrangements), we must remember that the King is the bond of imperial union. Although, therefore, political federation is altogether out of the question, yet union is essentially present, in the sense that the various kingdoms of the Empire shall have a common sovereign, whose proud title shall be, not, as at present, King "of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas," but King "of the United Kingdom of Great Britain, Ireland, Canada, Australia, New Zealand, South Africa, and the British Dominions beyond the Seas"—a multiple monarchy such as the world has never seen.

*Kingdom or Dominion?*—Shall I answer more categorically why I would substitute "kingdom" for "dominion" in Canada's name? It is, first, because of the connotations of the latter word. Blackstone says that

"a country conquered by the British arms becomes a *dominion* of the King in the right of his Crown, and, *therefore, necessarily* subject to the legislation of the Parliament of Great Britain"<sup>1</sup> (Hall v. Campbell, Cowp. 208).

I claim independence of the Parliament of Great Britain; and I object, therefore, to Canada being called a "dominion," for the word implies subjection. Further, I object to being called a "British dominion," for I assert that Canada belongs, not to the British, but to Canadians (saving always allegiance to the King). And I resent being lumped with Trinidad, and Guiana, and Barbadoes, as "British Dominions beyond the Seas." Canada, I desire to remark, is on this side of the

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<sup>1</sup> The Latin *dominium* was used to denote "a right—indefinite in point of user, unrestricted in power of disposition, and unlimited in point of duration—over a determinate thing" (Austin, "Jurisprudence," Vol. I, p. 817). See also Snow on the "Administration of Dependencies," p. 101.



seas — of the two largest seas in the world; and it stretches across, a few thousand miles or so, from one of them to the other. Secondly, I claim the word “kingdom,” because the assertion of political equality necessarily involves the assumption of an equal title. Until we have that, we shall be thought of, and shall probably be, subordinate, and colonial, and somebody’s dominions, some thousands of miles in more or less definite direction, beyond the seas. Had we received at baptism the name which Sir John A. Macdonald desired, we would now undoubtedly be, not only in fact but in sentiment, much more of a nation than we are to-day. We should have grown to our title.

A gentleman recently said to me, “I do not like the word ‘kingdom’; it is too pretentious.” Sir, it is the spirit of that remark that I deplore, and would eradicate, if I could. Is Canada too humble in origin and too insignificant in fact to be a nation? Must she hesitate to assume a title which Scotland had centuries ago when her people were clans of mutual depredators; which Servia and Montenegro and the rest have to-day; and which Ireland has, although she is without the self-governing power of our North-West Territories? Do not let us be afraid to be as great as we are; and what we are, let us try clearly to realize.

*War.* — Canada is at present loath to prepare for the eventuality of war, and she declines to subscribe to imperial necessities. And Canada is right. Let him who calls the tune pay the piper. Canada has no voice in questions of war and peace, and rightly enough she distrusts those who may to-morrow embroil her in conflict. Lord Salisbury little thought that civil war in Canada might be the result of his Fashoda ultimatum. That was unnoticed, or, if observed, may have been considered to be a mere unfortunate necessity. Canadians might have thought differently; and

might have taken an opportunity to remind Lord Salisbury of Newfoundland, about which he was not nearly so peremptory.

Canada's lack of enthusiasm for imperial preparation is because she has no voice in the production or evasion of hostilities; because she is bound up in war treaties without her consent, and without her knowledge; and because she is merely told to get ready to fight, and to suffer, and to pay — fight whom, or for what reason, she has no right to ask, and is thought to be traitorous and treasonable if she even discusses the matter.

Gentlemen, it is impossible that that should be a permanent arrangement. It is intolerably unsatisfactory. It pertains to the boyhood, and not to the maturity of our people. It robs us of our nationality. It takes from us a true sense of our proper responsibilities, and with that (little wonder) goes all, or nearly all, our incentive to undertake them.

*British Connection.* — British connection must be based upon something better and other than Canada's subjection. It must have for its chief corner-stone that absolute freedom for which she has so long been struggling, and which is now within her reach, were we unanimous in the assertion of it.

If it depends upon the continuation of the shreds of paternalism which still remain, if it depends upon keeping us worried over irritating bits of grandmotherly interference, then for my part I say to British connection "Adieu." But, gentlemen, the best sort of association is not that which provokes constant protest against irksome details of it. It depends, rather, upon the removal of all annoying hindrances to that perfect harmony and good-will which are so essentially necessary to its highest efficiency and its greatest development.

*The British Empire.* — The British Empire has survived its feudal stage and must take on other character. Not much

longer may the United Kingdom play the part of baron, with colonies, of the stature of Canada, for feudatories and retainers, who are to submit to his laws, to fight his battles, to pay him reverence, and to swear to be his men. The feudal system was right and necessary enough in the periods fitted for it; but as education, and commerce, and the conception of the dignity of man increased, vassalage and all subservience were succeeded by higher and nobler ideas of brotherhood and equality.

And the British Empire must assume this grander character, and rise to its higher ideal. Not inferiority, but equality. Not subservience, but equipollence. Not subjection either of Canada to the United Kingdom now, or of the United Kingdom to Canada when their proportionate importance shall be reversed, but absolute and unreserved brotherhood, making with Australia, South Africa, and other great kingdoms "a galaxy of nations"<sup>1</sup> which by their example of concord and affection, by their strength and widely extended situation, and by that regard for right conduct which alone can give true glory to a people, may not merely induce the world to tread the paths of peace and good-will, but may inspire among men nobler sentiments concerning their common humanity, and their duty of mutual helpfulness.

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<sup>1</sup> Sir Wilfrid Laurier's phrase at Dominion Day banquet, July 3, 1902.

## THE KINGDOM OF CANADA AND AUSTRALIA

FOR the condition of the Canadian constitution, Downing Street is not altogether to blame. The British North America Act is very nearly such as Canadians themselves asked that it should be. Federation of the Dominion was the union of various colonies at their own request, and it is no disparagement to the Canadians of the time to say that their work — the creation of the Dominion — has aroused in us dissatisfaction with those political limitations to which they were habituated.

Canada, now that the Imperial Federation movement is ended and Mr. Chamberlain, its last and greatest protagonist, has suffered physical eclipse, can readily obtain such changes in her constitution as she desires. Should she wish complete independence, it is hers; and should she be content with the mere removal of some of her legislative disabilities, she has but to make the request. If Canada likes subordination, — likes to go to London, for example, when she wishes to rearrange provincial subsidies, — she may continue it. And if she wants authority to manage her own affairs as she pleases, she may have it.

All this has been made perfectly clear by the proceedings of the late Colonial Conference (1907). Indeed, even prior to that, the British Parliament's attitude toward the request of the Australasian colonies for federation had abundantly proved the progress in ideas of colonial self-government during the twenty-four years which had elapsed since the creation of the Canadian federation.

Bearing in mind the limitations upon Canadian legislative power (referred to in the previous article), let us turn to the Australian statute and note the much larger jurisdiction which that commonwealth enjoys.

To understand it, we must remember that, intermediate between the period during which the Australasian colonies were completely separate from one another and the creation of the commonwealth, there had existed a Federal Council which exercised throughout Australasia some of the jurisdiction now assigned to the Federal Parliament. This Council had been established by the imperial statute of 1885 (48, 9 Vic. c. 60). It was composed of representatives of the Australasian colonies and of Fiji, New Zealand, and Tasmania — two representatives from each of the self-governing colonies and one from each of the Crown colonies. We shall find references to this Council in the commonwealth constitution.

*Merchant Shipping.* — Canada cannot legislate as to any ships but her own, even in Canadian waters. Australia's powers are much wider and include authority to legislate, under some circumstances, even for Canadian ships. Section 5 of the commonwealth statute provides that the

“laws of the commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the commonwealth.”<sup>1</sup>

A Canadian ship (that is, one registered in Canada), or any other British ship, voyaging from Adelaide, for example, round the world and back again, would be subject to Aus-

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<sup>1</sup> In the Federal Council's Act the provision was that the Council's laws should be in force “on board all British ships, other than Her Majesty's ships, whose *last* port of clearance, or port of destination, is in any such possession or colony.”

tralian law. Already there has been a conference in London at which British officials argued for days with representatives from Australia and New Zealand in persistent endeavor to get their wayward colonies to adopt British ideas as to legislation for British ships. Canada was not invited to the conference because of her legislative limitations.

*Fisheries.* — Canada's jurisdiction over the ocean extends merely (as does that of every country) to a distance of three miles from the shore. Every sovereign country, nevertheless, may make laws binding upon its own citizens in every part of the world, on land or sea. The United States, for example, may prohibit its own citizens from shooting seals in the open ocean; but it could not, of course, impose such prohibition upon anybody else. Canada is not a sovereign country, and she cannot legislate, even for the conduct of Canadians, beyond the three-mile sea limit.

The Australian Federal Parliament, on the other hand, has authority to pass laws respecting "fisheries in Australian waters *beyond* territorial limits." Each of the Australian states has jurisdiction (with respect to fisheries) over its own territory (including the three miles); and the Federal Parliament has jurisdiction beyond the three miles and within "Australian waters" — jurisdiction not merely over Australians, observe, but over all British subjects; for the statute giving the jurisdiction is an imperial statute.

*Foreign Affairs.* — Canada, as a matter of law, has no authority over her foreign affairs. She has much influence, no doubt, with Downing Street and the Foreign Office, and she has received various promises that she will not be compromised without her sanction; but her foreign affairs are conducted for her by the British Foreign Office.

In Australia the Federal Parliament has jurisdiction over her "External Affairs," and at the moment of writing the

## 34 THE KINGDOM OF CANADA AND AUSTRALIA

Hon. Alfred Deakin is her "Minister of External Affairs." Some Canadians would cry "Revolution!" if such a thing were suggested for the Dominion. But it may be worth their while to observe that this large instalment of independence passed both Houses of the British Parliament not only without opposition but without remark.

To those who regard capability "of maintaining relations with all other governments"<sup>1</sup> as a distinguishing characteristic of sovereignty, the momentous importance of this clause is very noteworthy. A careful student of the Canadian constitution has very truly said that

"it looks as though the Imperial Parliament intended . . . to divest itself of its authority over the external affairs of Australia and commit them to the commonwealth Parliament."<sup>2</sup>

In the opinion of Messrs. Quick and Garran (the authors of "The Annotated Constitution of the Australian Commonwealth"),

"This power may therefore be fairly interpreted as applicable to (1) the external representation of the commonwealth by accredited agents when required; (2) the conduct of the business and promotion of the interests of the commonwealth in outside countries; and (3) the extradition of fugitive offenders from outside countries" (p. 632).

Thus far the Australians themselves have placed a very limited construction upon the words "external affairs." In 1902 the government of the Netherlands complained to the British government of some disregard of treaty obligations in South Australia. The Colonial Secretary having applied to the Australian federal government for information, and the federal to the state government, the latter declined to

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<sup>1</sup> *Ante*, p. 5.

<sup>2</sup> Mr. Lefroy, *Law Quarterly Review*, July, 1899, p. 291.

communicate with the Colonial Secretary through the federal government, asserting its privilege to direct correspondence. The Colonial Secretary decided against that view. But neither the federal nor the state government claimed the right to communicate with the Netherlands. They agreed that the words under consideration meant "affairs exclusive to the commonwealth, but not exclusive to the Empire";<sup>1</sup> and the Colonial Secretary declared that the commonwealth had power

"to deal with all political matters arising between them and any other part of the Empire or (*through His Majesty's government*) with any foreign power."<sup>2</sup>

*The Pacific Islands.* — The clause of the constitution just considered is followed by another which, without further information, would seem to supply a strong argument for giving to the phrase "external affairs" some very narrow meaning, inasmuch as it gives jurisdiction to the Federal Parliament over "the relations of the commonwealth with the islands of the Pacific." Why, it may be asked, should there be a special clause respecting these islands, if by the previous provision complete jurisdiction had already been given over all "external affairs"?

The answer is this: Both clauses are subsections of a section which enumerates all subjects of legislation assigned to the Federal Parliament. Everything not appearing in this section would remain within the jurisdiction of the states. Relations with the islands of the Pacific had been a matter of state jurisdiction prior to federation. External affairs, other than these relations, had not. There were, therefore, under the circumstances, two subjects of legislation to dispose of, —

<sup>1</sup> The correspondence is printed in the Br. Sess. Pap., 1903, Vol. 44. See pp. 89, 95.

<sup>2</sup> *Ib.* p. 87.



one an old subject and the other something new. It was determined that both of them should be assigned to the Federal Parliament, and both therefore appear in the section. Possibly such care was not necessary, but without the second subsection the inference might have been drawn that "external affairs" was not intended to cover relations already existing. The nature of these relations, too, is of importance; for they had really involved a sort of partnership with the United Kingdom in the sovereignty over these islands — had involved the commencement of an Australian Empire.<sup>1</sup>

*Independence.* — If we add to the grant to Australia of authority to control its "external affairs," the following additional grant, what shall we say?

"The exercise within the commonwealth, at the request or with the concurrence of the Parliaments of all the states directly concerned, of any power which can at the establishment of this constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia."

Does this give to the commonwealth all the jurisdiction over Australia and its affairs which the United Kingdom theretofore had? Is it a complete assignment of all legislative authority? There are, no doubt, the apparently limiting words "within the commonwealth"; but if by this subsection all the jurisdiction of the British Parliament "within the commonwealth" is given to Australia, and if by a previous subsection all jurisdiction over its "external affairs" is also transferred, what is withheld? Messrs. Quick and Garran's comment is as follows:

"The Parliament of each colony had general power to make laws for the peace, order, and good government of the colony, subject only,

<sup>1</sup> See Quick and Garran, p. 639. See also Imp. Stat. 35, 6 Vic. c. 19; 38, 9 Vic. c. 51; and the Queensland legislation agreeing to contribute £15,000 to the cost of the protectorate.

## THE KINGDOM OF CANADA AND AUSTRALIA 37

- (1) to the general exceptions expressed in the Colonial Validity Act — that such laws must not be repugnant to any imperial law expressly extending to the colony;
- (2) to certain particular exceptions expressed in the Constitution Act of each colony; and
- (3) to the limitation that such laws could not operate extra-territorially, except where express authority to that effect had been given by the Imperial Parliament.

“It would seem, therefore, that the only powers to make laws for the peace, order, and good government of a colony which at the establishment of the commonwealth were only ‘exercisable’ by the Imperial Parliament, are powers which come within one of these three classes of exceptions or limitations. Does this subsection enable the Federal Parliament, with the concurrence of the states, to pass laws for the exercise of any of these powers?” (p. 650).

*Amendments of the Constitution.* — Perhaps the most extraordinary provision in the constitution — one which supplements in a most remarkable way the comprehensiveness of the grants of authority already discussed — is the provision with reference to its amendment. Section 128 provides:

“This constitution shall not be altered except in the following manner —”

namely, by very special provisions as to passage of the proposed law by Parliament, and its ratification by popular vote. Canada has no power to amend its federal constitution. For the smallest change, application has to be made to the Parliament of the United Kingdom. Has Australia authority to make any amendment in its constitution that it pleases? Has the British Parliament renounced its jurisdiction over Australia? Is Australia really and legally an independent state? The preamble of the statute is very important:

“Whereas *the people* of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the

## 38 THE KINGDOM OF CANADA AND AUSTRALIA

blessing of Almighty God, *have agreed* to unite in one indissoluble federal commonwealth, under the Crown of the United Kingdom of Great Britain and Ireland, and *under the constitution hereby established.*"

Observe that the constitution is not one imposed upon the people of Australia, but one agreed to between themselves; that part of the agreement is that the constitution is to be altered only by the people themselves; and that the Parliament of the United Kingdom has assented to the constitution, and to the terms upon which, exclusively, it is to be altered.

This appears to be a very clear renunciation on the part of Parliament of its authority to alter the constitution without the assent of the Australian people; and, just as clearly, a declaration that, with such assent, the Australian Parliament can alter it for itself.

The constitution of the United States commences in this way:

"We, *the people* of the United States . . . do ordain and establish this constitution for the United States of America."

And the clause as to amendment of the constitution provides for the previous ascertainment of the will of the people.

In this respect, therefore, the only difference between the constitutions of Australia and the United States is that the Americans, having agreed upon their constitution, proclaimed it themselves; while the agreement of the Australians was declared by the British Parliament. In both cases the people themselves determined for themselves the character and particular provisions of their own constitution; and in both cases amendment of the constitution is to be made by the people themselves and by them only. Does it make very much difference in what way proclamation was made of the constitutions?

## THE KINGDOM OF CANADA: COLONY TO KINGDOM

A SELF-GOVERNING community is a community that governs itself. A colony, on the other hand, is one that does not. Very well: now what is a self-governing colony?

Canada was at one time a colony, and had no political authority of any sort. Now she has such large powers of self-government that the word "colony" is almost completely outgrown. She is therefore classed neither as self-governing nor as a colony, but by the contradictory title of "self-governing colony." What will she be when she ceases to be a contradiction?

What will Canada be — not if something unsuspected happens (as it may), but if she continues in the line of her present political development? Where ends the road which, so far, Canada has travelled? Leaving prophecy and speculation, and possibility and probability, and even sentiment aside, what is the answer to the question, Where does the present road end?

Note the past, and the future (if nothing unsuspected happens) is clear.

First observe that we have taken no step toward the deposition of the King, and that there is not at present any thought tending in that direction. That may be well or ill. We may shortly be travelling some other road. Nobody knows. We are inquiring for the moment, merely, where the present road leads to. And we note that it has not brought us any further from monarchy than when we commenced. A thousand years of the same sort of road will leave us, in that respect, exactly where we are.

Observe, however, the very necessary distinction between the King—our titular head—and the King as represented by Downing Street—our governmental head. The road of our own political history is strewn with the memorials of contests with Downing Street—memorials very largely of victories. Go back to the military Governors; to the civil Governors who governed us and told us what to do; to Family Compacts; to elections of representatives to carry on our squabbles with the Governors; and come down through Lord Durham's report to our present social Governors, those who for the most part do as *we* tell *them*, and observe what a length of road we have come—a road from Crown colony to almost complete self-government.

Now granted (1) that we have not yet moved from monarchy; (2) that on the other hand we have been constantly adding to our powers of self-government; (3) that we intend to continue the addition until the sum is complete; (4) that therefore we are not always to be a colony—grant these, and the end of *that* road becomes clear to everybody.

Canada may deviate! Yes, the prophets know all about that, and each prognosticator knows better than all the others. For us, all we perceive is that to-morrow some slight incident or some great world perturbation may occur, and Canada may be swept into combination that even the prophets have not imagined. We cannot tell. Next week some sympathetic chord may be touched and Canada may be drawn into federation that now seems impracticable and impossible. We don't know. Nothing is certain but this: if we keep to our present road, (1) we shall keep to monarchy; (2) we shall attain to absolute self-government—we shall no more be subject to Britain than Britain is to us; and (3) we shall therefore no longer be a colony but a kingdom.

But how can that be? Edward VII is King of Great

Britain and Ireland; how can he be King of Canada at the same time? Well, according to current terminology, Edward VII is at this moment King of Canada and, nevertheless, curiously enough, Canada is not a kingdom. His title is King "of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas." Canada is called a "Dominion," Australia chose the word "commonwealth"; other places are colonies or possessions, and Edward VII is their *King*, but they are not kingdoms! A kingdom is the Dom. (Dominion) of a King.<sup>1</sup> What is Canada?

Canada then has already a King; and the only question is whether she is, or is to be, a kingdom. There may be two or more separate and even unallied kingdoms with the same King. Canada may be independent of Downing Street while retaining Edward VII as her King. England and Scotland were for a hundred years independent kingdoms but under the same King. The situation is not only possible, but quite familiar.<sup>2</sup>

To reasoning of this sort the following criticism has been offered:

"A very learned Canadian lawyer has indeed suggested reducing the link between Great Britain and Canada to a mere 'personal union' such as existed between England and Scotland under the Stuarts. He did not explain what was to happen if the British ministry and the Canadian ministry (which by his plan were to be quite unconnected) failed to agree on any matter touching common interests. A bold assumption of personal authority by the King might well be the only passage out of such a deadlock; and no one here needs to be told that this would be not innovation but revolution. It has not been seriously proposed that Canada shall have the power of involving the whole Empire in war without consulting the home

<sup>1</sup> See *ante*, p. 27.

<sup>2</sup> The United Kingdom and Hanover under the Georges is another example.

government, but such is the natural consequence of some things that some Canadian politicians have said." <sup>1</sup>

Metaphorical language (possibly one cannot get on without it) is often misleading. What, for example, is meant by "reducing the link"? Well, the link originally was military governorship, and it was reduced. Were we wrong? Then the link was a series of civil governing Governors, and it was reduced. Were we wrong, though it took a couple of rebellions to do it? Was Lord Durham wrong? Then the link was semi-ruling Governors with ideas as to Canadian matters having "imperial aspects," or involving "royal prerogatives," etc., and it was reduced. Were we wrong? It has been reduced by insisting upon the right to make our own commercial arrangements with other nations. Were we wrong? It has been reduced by the development of our military and naval forces under our own control; by the assumption of our defences at Halifax and Esquimalt; by the appointment of a special envoy to negotiate with Japan; by every step which we have taken toward self-government; by every departure from leading-strings; by every advance to the dignity of nationhood. Were we wrong? And if we still fall short of our honorable, reasonable, and splendid ambition, if in some few respects we are still colonials and so unable to rank among the nations of the earth (even such as Portugal, Switzerland, Norway, Sweden, Roumania, Bulgaria, Peru, Chili, Venezuela), shall we do wrong if we continue upon the road which leads to complete self-government? — to something else than a British Dominion "beyond the Seas"? — to nationhood under the name of Canada?

The learned Canadian lawyer then does not appear to suggest anything but that we shall keep to the road. In strict

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<sup>1</sup> "Imperial Organisation," by Sir Frederick Pollock, Bart.

truth he suggests nothing at all. He points to the road that we have travelled and are travelling, and he merely indicates what we shall find, if we keep on, at the end of it.

Suggestion of innovation and deflection come, not from the Canadian but from the English lawyer, who appears to desire that the natural process of Canadian political evolution shall be stopped; that instead of going forward to complete self-government, Canada shall remain semi-developed, a sort of overgrown colony, acting under the guidance or advice of a somewhat extensive "Imperial Committee," a committee upon which Canada is to have one representative — our High Commissioner might be the one, so it is suggested, if our Premier finds that he cannot leave his responsibilities and colleagues at Ottawa in order to go and help to advise himself from London. There always have been people who wanted to stop our progress at every prior stage of it. They were all wrong. Nobody now thinks otherwise. Why stop it at this particular moment? How can you stop it?

Very little importance, moreover, attaches or ever did attach to the desires of individuals respecting Canada's political growth. We can all now see that it could not have been arrested. And Canada's firm conviction is that she is quite healthy enough to come to maturity. No one detects symptoms of failure. But in any case, all that is now affirmed is that if we keep to the *present* road, maturity means kingdom.

Now a word of explanation (if really necessary) as to what will happen if the British ministry and the Canadian ministry fail to agree on any matter touching common interest.

What would happen to-day? One of two things: either the countries would compose their differences, or they would separate. And what would happen were Canada a kingdom instead of being an overgrown colony? Exactly the same thing.



No one imagines that the slight authority at present held over Canada can or will be used to coerce her with respect to anything about which she really wants her own way. At the present moment, then, we depend, in case of difference, upon compromise and adjustment, helped by good-will. Were Canada a kingdom the position would be precisely the same.

Or is it suggested that the slight authority, although not sufficient for coercion, would yet suffice for pressure? Upon the whole it would be better not to suggest that. It is not calculated to preserve good relations.

Then it is said that "it has not been seriously proposed that Canada shall have the power of involving the whole Empire in war without consulting the home government." True. And is it seriously argued, on the other hand, that the home government shall eternally have the power of involving Canada in war without consulting Canada? If yes, we can understand the objection to Canada attaining her majority. If no, the English lawyer should indicate his view of what will "happen if the British ministry and the Canadian ministry failed to agree."

Either Canada is to remain a colony and do as she is told, or, keeping the present road, she is to become a kingdom and govern herself. In the one case no differences will arise, for Canada will always obey — a case as impossible as humiliating. In the other, differences may arise: differences such as arise between brothers or between father and emancipated son; differences to be settled, not by the slavish submission of either disputant, but by reasonable adjustments.

Upon the whole the best answer to all questions as to what will happen if Canada becomes self-governing is that all such queries and all speculative answers to them are unimportant. Canada is not to be the only example in the world of an

intelligent people declining political freedom because of questionings and speculations as to what they will do with it.

Canada will settle that for herself — very probably not to the satisfaction of everybody, but to the satisfaction of Canada. That is all the pledge she gives.



## THE KINGDOM OF CANADA: COLONIAL CONFERENCE OF 1907

SINCE delivery of the address entitled "The Kingdom of Canada" (*ante*), the Colonial Conference of 1907 has done much toward the elevation of Canada from colony to kingdom. In a later part of this volume will be found a somewhat detailed account of the work of that Conference with reference to each special subject discussed. Let us note here three points which may be of more particular interest in the present connection, namely:

1. Declaration of the independence of the self-governing colonies;
2. Recognition of the inappropriateness of the title "colony";
3. Assertion that a colonial government, equally with the government of the United Kingdom, is "His Majesty's government."

### *Colonial Independence*

In 1907, for the first time in their history, the government of the United Kingdom and the governments of the colonies met in momentous convocation upon a footing of acknowledged equality. At the Conference of 1902, Mr. Chamberlain had assumed the tone of a father addressing his wayward sons; wanted to know what help the colonies would supply in case of European war; spoke petulantly of their lack of previous support; indicated that certain sorts of fiscal legislation by the colonies could not be permitted, and so on.

In 1907, not only has all suggestion of supremacy disappeared, not only is equality admitted, but on various occasions the British ministers had to listen to language plainer than, with all their courtesy, they could invariably reply to with perfect politeness. Much more important than this alteration in tone, was the fundamental change in the British conception of inter-imperial relations — the complete abandonment of all schemes for the tightening of British control and the frank admission, even the repeated assertion, of colonial independence.

Take a few extracts from the proceedings. In his opening speech, the Prime Minister of the United Kingdom said:

“You in common with us are representatives of self-governing communities” (“Proceedings of the Conference,” p. 5).

“I am not going to enumerate, still less discuss and criticize the various schemes more or less ambitious which have been put forward; but I will just make a remark applicable to all such proposals. We found ourselves, gentlemen, upon *freedom and independence* — that is the essence of the imperial connection. Freedom of action on the part of the individual states, freedom in their relations with each other and with the mother country. Anything which militates against that principle would be wholly contrary to the genius of our race and our political ideals, and would sooner or later be disastrous” (*Ib.* p. 6).

Lord Elgin, the Colonial Secretary, concurred in

“the principle which the Prime Minister laid down, that is to say, the *freedom and independence* of the different governments which are parts of the Empire” (*Ib.* p. 74).

Replying to the Prime Minister's address, Sir Wilfrid Laurier said:

“This conference is not, as I understand it (I give my own view), a conference simply of the Prime Ministers of the different self-governing colonies and the Secretary of State; but it is, if I may give my own mind, a conference between government and governments. It is a conference between the

imperial government and the governments of the self-governing dependencies of England" (Lord Elgin assented to this, *Ib.* p. 621).

"But upon one thing we are all agreed, and I believe that if we can keep this in view we can never go astray, that is to say, that if the basis of the union which now binds the British Empire remains as it is now, a proper and always permanent recognition of the principle that *every community knows best what does for itself*, that we cannot go wrong, and our deliberations must be fruitful" (*Ib.* p. 7, and see p. 411).

Sir Joseph Ward (New Zealand) said:

"I think we should be, above all things, strenuous in our desire to preserve *our entity and individuality in the matter of control of our own country*" (*Ib.* p. 31, and see pp. 45, 65).

Dr. Jameson (Cape Colony) said:

"I think we are all unanimous in this room, and I know how strong the feeling is, that we ought not to delegate any possibility of any power away from the self-governing colonies, but that *we ought to increase their powers*. What we are anxious to do is, of course, *to get each individually into constitutional equality with the motherland*; it may be a very disproportionate equality, but that is our idea, really that we are going to be nations, not separate from the United Kingdom, but nations within the United Empire. . . . Of course we may have visions a thousand years hence of a closer union" (*Ib.* pp. 34, 35).

"I want to explain again that we all say we must have *absolute liberty of action on this* [preferential trade] *and every other subject*" (*Ib.* p. 437).

Mr. Deakin, in withdrawing Australia from the agreement to send contributions to the British navy (having determined to spend the money locally), said:

"We recognize this as a further step in the exercise of our self-governing powers" (*Ib.* p. 475, and see pp. 7, 44).

General Botha said:

"The position that we take in the Transvaal, now that we have responsible government, is that the mother country ought

to leave us alone as much as possible to regulate our own affairs" (*Ib.* p. 304).

The General objected to British legislation as to naturalization throughout the Empire, on the ground that

"it is not desirable that legislation should be imposed on a self-governing colony except by the Parliament of such colony" (*Ib.* p. 535).

Mr. Asquith, the Chancellor of the Exchequer, said:

"The special feature of the British Empire has been that it has combined, and has succeeded in combining in a degree unknown in any other combination in history, a loyal and affectionate attachment between the centre and the parts of the Empire, and between the various parts themselves with *complete practical independence*.

"Our statesmen of all parties were wise enough to recognize that unless they gave to those communities complete fiscal independence, they were giving them a boon which, in the long run, was not worth having" (*Ib.* p. 306, and see p. 307).

Mr. Winston Churchill spoke of

"the principle of self-government which is at the root of all our colonial imperial policy" (*Ib.* p. 402).

### "Colony"

The "essence of the imperial connection" having thus been declared to be "freedom and independence," it is not surprising that an effort should have been made to discard the word "colonies." Sir Joseph Ward said:

"I think the term 'colony,' so far as our countries are concerned, ought to cease, and that the term ought to apply to the Crown colonies purely" (*Ib.* p. 30).

Sir Wilfrid Laurier said:

"So far as the colonies represented here are concerned I wish we could drop the word 'colonies' and try to invent something which would strike the imagination more" (*Ib.* p. 80).

Mr. Winston Churchill suggested that for the word "colonies" there should be substituted the phrase "His Majesty's Dominions beyond the Seas" (*Ib.* p. 78). Mr. Deakin's suggestion of "self-governing Dominions" (*Ib.* p. 81) was thought to be too comprehensive, for it embraced the United Kingdom itself and *faute de mieux* "self-governing Dominions beyond the Seas" was adopted (*Ib.* p. 89). The imagination, however, did not approve the phrase, and in the subsequent resolutions we meet: "British Dominions beyond the Seas," "the colonies," the "self-governing colonies," etc.

No one suggested that if the colonies had really ceased to be colonies, if they were really free and independent, if they were really "in common with" the United Kingdom "self-governing communities," no reason could exist why they should have a less honorable title. If they are, as a matter of real fact, free and independent, then they are not, and cannot be, "Dominions," nor can they be "beyond the Seas." If Canada is free and independent, she is a kingdom.

### *"His Majesty's Government"*

Another nomenclature difficulty was badly solved. A resolution having spoken of "His Majesty's government, and the governments of the self-governing Dominions," Sir Wilfrid Laurier said:

"Somebody has suggested to me that instead of having 'His Majesty's government' we should have 'the government of the United Kingdom.' I suppose we are all His Majesty's governments here."

THE CHAIRMAN. "It is a technical term for His Majesty's government here."

SIR WILFRID LAURIER. "Yes, it is very well understood; but suppose we said 'the government of the United Kingdom,' as we all claim to be His Majesty's governments."



The resolution was changed to "His Majesty's government, and the governments of the self-governing Dominions beyond the Seas"; and Sir Wilfrid had to be content with that.

Canada's nationality will never be very strikingly apparent as long as her power of self-government is so doubtful that it requires assertion in her title, and as long as she is described as "beyond the Seas."

Perhaps one more Conference will satisfactorily complete the unfinished work of 1907.

## THE BRITISH EMPIRE

WHAT do Imperialists mean when they speak of a duty "to keep the Empire together"?

Not that the present political relations between the different parts of the Empire should continue as they are. Upon the contrary, we are incessantly told that these relations are unsatisfactory; that the colonies have become sister-states; and that they should assume their share of the duties and responsibilities of the Empire. Mr. George R. Parkin, for example, the prince of Imperialists and their first missionary, has declared that

"if the greater British colonies are permanently content with their present political status, they are unworthy of the source from which they sprang."<sup>1</sup>

And Professor Leacock, the present crusader, has recently argued that

"this colonial status is a worn-out, by-gone thing."<sup>2</sup>

Imperialists suggest, therefore, some change in imperial arrangements. The nature of that change they leave unformulated, for the very sufficient reason that they have no idea what it ought to be. Since the commencement of Federation Leagues to the present time, no scheme has been put forward by anybody (of any importance), and the latest travelling apostle of federation has recently appealed to other people to "find us a way."<sup>3</sup>

We are then in an exceedingly difficult ethical situation.

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<sup>1</sup> "Imperial Federation," p. 18.

<sup>2</sup> Professor Leacock's article in the *University Magazine*, 1907.

<sup>3</sup> *Ib.*

It is our duty "to keep the Empire together"; we have not the slightest notion how it is to be done; and it is becoming increasingly doubtful whether there is any possibility of doing it at all.

And that is not our whole difficulty. Our present position being "unworthy" of us, it is our duty to terminate it, to refuse any longer to tolerate a relationship which is "degrading"<sup>1</sup> to us; it is our duty to end present arrangements, something which can very easily be done; and it is our duty to make new arrangements, something which nobody can do or even make any suggestion of how to do.

It is a desperate case, and there seems to be nothing for Canadians but to follow the example of the celebrated Brudder Jones: "Bredren," shouted the preacher, "dere am but two roads: one am de straight and crooked road dat leads to destruction, and de udder am de broad and narrow road dat leads to damnation." "Wheugh!" cried Brudder Jones, as he made for the door, "if dat's so, I guess dis yere nigger am a-gwine to tak to de woods." Luckily for Canada she has plenty of woods.

But can any one deny the existence of a "duty to keep the Empire together"? Is no loyalty due as between the parts of a political whole? May any geographical area of a kingdom, a republic, or an empire, at any moment, withdraw from its affiliations? Were not the Northern States of the American Union justified in denying the attempt of the Southern States to secede?

Granted — granted. But the peculiarity of the present situation is that the asserters of the "duty to keep the Empire together" are the very ones who, were they careful of their language, would most strenuously deny the existence of any such duty.

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<sup>1</sup> Mr. Parkin in "Imperial Federation," p. 15.

For it is they, most conspicuously, who (as we have seen) denounce the nature of the present relationship between the United Kingdom and the self-governing colonies; who assert that it is "crude in form" and "degrading" — "a worn-out, by-gone thing"; and who demand not that it shall be maintained, but that it shall be ended.

What these gentlemen desire is not in the least to "keep the Empire together," but to dissolve it, and to substitute for it something entirely new — something, observe, which (as far as the relations between its parts are concerned) would not be an empire at all, but a federal union.

Stated in this way, declaration of duty is of course absurd. Admittedly, political relations may exist which ought to be treated as indissoluble; and we may recognize that the County of Cornwall is under obligation to continue her present political affiliation with the United Kingdom. But predication of a moral duty to enter into some new form of association — new as between the parties and new in the sense of novel experiment — is impossible.

What, for example, are to be the terms of the new constitution? Or would it be immoral to discuss terms? Perhaps we ought to federate without any terms? Now that Nova Scotia is part of Canada, she ought (save under very extraordinary conditions) to remain there; but was she wrong in arranging terms of partnership before consenting to become a partner?

Imperialists are not wrong in denouncing the present relationship between the United Kingdom and Canada and in demanding its termination; and neither they nor we should be deterred from maintaining our view by the suggesting of breach of political faith. Were we, as Mr. Chamberlain seems to think, as really a part of the British Empire as is Cornwall, advocacy of the disruption of present rela-

tions, without suggestion of feasible substitution, would be a political crime. But that is not our position, as two considerations suffice to show:

1. Our situation is unbearable. It is one of subserviency. It is "crude" and "degrading." It is one which it is our duty to terminate. Cornwall is in no such case.

2. We are not in reality, but only in form and appearance, a part of the British Empire. Declaration of independence would be little more than a declaration of existing fact. That is not the position of Cornwall.

The force of the first of these reasons will be admitted by Canadian Imperialists. Considering the second of them, let us try to understand in what sense Canada is to-day a part of the British Empire.

Distinguish carefully between the United Kingdom of Great Britain and Ireland, and the Empire which the United Kingdom owns. On the one hand we have Great Britain and Ireland; and on the other the larger organism, the British Empire, which includes in one entity the United Kingdom and all its possessions.

Distinguish in the same way between the two functions of the Parliament which sits at Westminster. As a local Parliament — the Parliament of the United Kingdom — it legislates for the United Kingdom; and as the Imperial Parliament it legislates for all other parts of the Empire.

In this way we get an idea of what an empire is — at least of what the British Empire is, as distinguished from the United Kingdom itself. *It consists of one dominant state, and one or more subordinate states.*

If politically associated states are equal, they are not an empire but a federation (as in the case of the United States of America). If on the other hand several states are merged together and form one state, we have a kingdom, a republic,

or some other single political entity. An empire (at all events in the sense in which there is a British empire as distinguished from a British kingdom) is *a combination of one dominant and one or more subordinate states.*

Then in what sense is Canada a part of the British Empire?

Clearly enough Canada is not a part of the dominant state. She is not a part of the United Kingdom of Great Britain and Ireland. She has no representation in the dominant, the Imperial Parliament. She takes no part in the government of India, or of any part of the world but Canada. She is not the dominant state nor is she a part of it.

If, then, Canada is a part of the British Empire at all, it is because she is one of the subordinate states. In days not very long since, no doubt she was subordinate enough — not only did the Imperial Parliament legislate for her as it pleased, but Downing Street representatives regulated her most trivial affairs.

That was "crude" and might almost have been called "degrading." It is now "worn-out" and "by-gone." Even the semblance of subordination is rapidly passing away. The reality is past.

In what sense, then, is Canada a part of the British Empire?

She is not the dominant state, nor a part of it? No. And she is not, in reality, a subordinate state? No. Then she is not part of the Empire at all? Yes; for the semblance and appearance of subordination remain. To that extent, then, and no further, as a matter of constitutional description, is Canada a part of the British Empire.<sup>1</sup>

It would be very absurd to say that two countries might be parts of the same empire, and yet have no political relationship of any kind with one another. So long as Canada

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<sup>1</sup> As Mr. Sydney Brooks well says, "It is an Empire in feeling, perhaps, but not in fact."

was politically subordinate to the Imperial Parliament, she was of course part of the Empire. But now that Canada is independent of the Imperial Parliament, now that imperial authority has been relinquished and discarded, now that she has no obligatory political relations with the former dominant state, how can she be part of Great Britain's Empire?

To this extent she can: to the extent that the semblance and appearance of subordination still remain. In form, a Governor comes to us from Downing Street; in reality, we govern ourselves. In form, our constitution is an imperial statute; in reality, it is the declaration of our own wish. In form, the Imperial Parliament can abrogate or alter our constitution as it pleases; in reality, the Imperial Parliament would as probably legislate for France as for Canada, except at Canada's request; in reality, we can to-morrow, if we like, give ourselves any constitution that we care to assume.

As a matter of form, we are part of the British Empire. As a matter of living fact, we are an independent nation — if by that is meant that our position as a colony is a “worn-out” and “by-gone” thing; that we are masters of our own destiny; that we are as free politically and practically as any nation in the world to do exactly what we like.

Test this statement by its application to the relations between the countries under the two conditions of peace and war.

*Peace.* — During peace (and for that matter during war also) Canada exercises that greatest right of independence, the right to tax the goods of the United Kingdom — the right even to exclude such goods by taxation.

Not only so, but Canada makes such fiscal arrangements with foreign countries as she thinks right.

And Canada's position in this respect is so free from metropolitan control, that, were the United Kingdom willing,

Canada would enter into an agreement with her for reciprocal trade preferences.

It is said that Canada is a part of the Empire; but it is of an Empire that has no fiscal cohesion, of an Empire which may, as at present, be at fiscal peace, or may at any time be at tariff war, *with itself*.

*War.* — Imperialists urge mutual defence as the great advantage to be derived from “keeping the Empire together”; if one part is attacked, every part is at war. As France could not attack Cornwall, and pretend that she was not invading the United Kingdom; so, were Russia to attack British India, Canada would *ipso facto* be at war with Russia.

That is true, if Canada is a part of the British Empire. Let us test, therefore, Canada’s relationship to the Empire by considering what precisely Canada’s position would be were the United Kingdom and Russia at war.

Imperialists would answer the question with a contemptuous sneer: Of course Canada would aid the United Kingdom with her whole resources, to the last man. And Canada’s last Governor (Lord Minto) would sniff at “colonial technicalities.”<sup>1</sup> Bearing this with becoming colonial deference, and protesting that the question is not what Canada would of course do, but what Canada is by virtue of her political situation and relationship bound to do, we reply that she is under no obligation to do anything.

The explanation is historical. Britain planted colonies (calling them plantations) for the same reason that a farmer plants cabbages — because of their benefit to himself; and Britain protected her plantations for the same reason that the farmer protected his — because he wanted them for himself. And there was no more idea in the one case than in the other

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<sup>1</sup> He used the phrase while Canada was considering whether she would take part in the Boer war.



that the thing planted would render any service anywhere but in the locality in which it was put.

Colonists were expected to provide to the best of their ability for the defence of their homes; but until Mr. Chamberlain's time there never was anything approaching official demand for colonial forces to serve in European wars.

At the Colonial Conference of 1902, Mr. Chamberlain (through the Colonial Defence Committee) asked for

"some assurance as to the strength of the contingents which they should be able to place at the disposal of His Majesty's government for extra-colonial service in a war with a European power."

The colonies declined to give any such assurance, Canada and Australia declaring that colonial action should be decided by each colony for itself "when the need arose." In other words the colonies declared that they would do as they pleased.

True enough, say the Imperialists, but all you have shown is that Canada is under no legal or constitutional duty to take part in British wars. That does not in the least disprove the assertion that, whether Canada liked it or not, she, as part of the British Empire, is always in war-relationship with Britain's enemy. The destruction of a few of Canada's ships would very soon make that apparent to her.

Certainly, but if Canada were willing to remain neutral, Russia would be very polite to Canada's ships. Like other countries, Russia would much rather fight one power than two. She might, no doubt, if she so chose, treat Canada as a part of the Empire and attack her; and Canada might elect to act as part of the Empire and side with the United Kingdom. In either case Canada would be at war with Russia. But if both Canada and Russia preferred that Canada should be neutral?

Canada's present relationship to the Empire is ambiguous. In form and appearance she is yet a colony, yet subordinate, yet a part of the British Empire. In reality she is a free and independent state, if by that is meant that she can do as she pleases. As a matter of constitutional form, Canada would be at war with Russia from the moment of the war's commencement. As a matter of reality she would not, unless she or Russia chose to say so. And inasmuch as Canadian neutrality would be very agreeable to Russia, Canadian participation in the hostilities would probably be a matter for Canadian decision.<sup>1</sup>

These considerations answer our question; but paying attention for a moment to imperial protests against the "ignominy of abandoning the mother country in her hour of need," let two points be noted:

1. It is difficult to abandon anybody that you have never promised to support. There has never been any agreement, expressed or implied, that Canada shall assist the United Kingdom in case of war.

2. Having not the smallest voice in the making of foreign wars, is it reasonable that Canada should be under obligation to contribute to them, no matter where they are, or with whom, or about what? The United Kingdom recently made a war treaty with Japan, under which (if it is much prolonged) Britain will very probably be required to go to war with the United States. At the moment of writing, relations between Japan and the United States are strained, and the American navy is sailing for the Pacific Ocean. If war should ensue, and if the United States should take Formosa from Japan (as it took the Philippines from Spain), the United Kingdom and the United States would be at war with one another.

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<sup>1</sup> A Canadian statute provides for the summoning of Parliament in case of war. Parliament would decide what was to be done.

And Canada would have to fight against the United States, or incur "the ignominy of abandoning the mother country in her hour of need" — so we are told.

Canada had no part in the making of the treaty. She was not consulted about it. It is diametrically and fundamentally opposed to her interests. There is at least one Canadian who refuses to be bound by it, and he is fairly certain that in the event of war between the United States and Japan, Canada, if she fights at all, will not do much harm to her neighbors.

Imperialists are most unreasonable in their conception of Canada's duty in case of British wars. They would perpetuate Canada's subordination. They maintain that control and direction should remain in London, and that spontaneous and enthusiastic hurrahs should unhesitatingly echo back from Canada. Some of them indeed, breaking in upon all British custom, propose that the United Kingdom should not declare war without the assent of the colonies, or at all events without consultation with them. But such proposals are wholly impracticable. War is usually the result of a long chain of events and the outcome of previous policy. No one has proposed that the colonies shall be consulted at every step in British foreign relations. And consultation after war has become inevitable is useless. Had we what is termed Imperial Federation, with one central government, the case would of course be different; but that, too, is impracticable.

Practicable or not, for the present, at least, we have neither Imperial Federation nor an Imperial Council; and the question is whether, in the absence of these, Canada ought to be eternally ready to hurrah for wars in the making of which she has no part, which may in her judgment be as foolish as the Crimean or as unjustifiable as the Chinese, which may deluge her land with blood, and even involve her political existence. Canada is fairly well convinced that she ought to

decide for herself this, as well as all other questions affecting her interests.

Imperialists do not sufficiently observe the great difference between a mere colony — a community in leading-strings — and such a state as Canada.

Peace and war were originally matters solely within the royal prerogative. Nominally they are so still. Really they are discussed and decided upon by the government of the day. But by what government? In the United Kingdom there is a government of His Majesty, and in Canada there is also a government of His Majesty. The London government advises the King upon all matters relating to the United Kingdom and the Empire, and the Ottawa government advises the King as to all matters relating to Canada. Which of these governments should advise the King with reference to Canadian participation in wars?

While Canada was a mere colony, no question could arise. But now that Canada is a "sister nation," in an Empire founded upon "freedom and independence" and the equality of all the component nations, what argument will sustain the assertion that the London government can involve Canada in war which will not compel the conclusion that Canada can also declare an imperial war?

Returning now to the question, and testing our assertion with reference to Canada's relationship to the Empire by its application to war, we may say:

1. As a matter of form, if the United Kingdom is at war, Canada is at war.

2. As a matter of reality, whether Canada is at war depends upon what the particular enemy and Canada may choose to say.

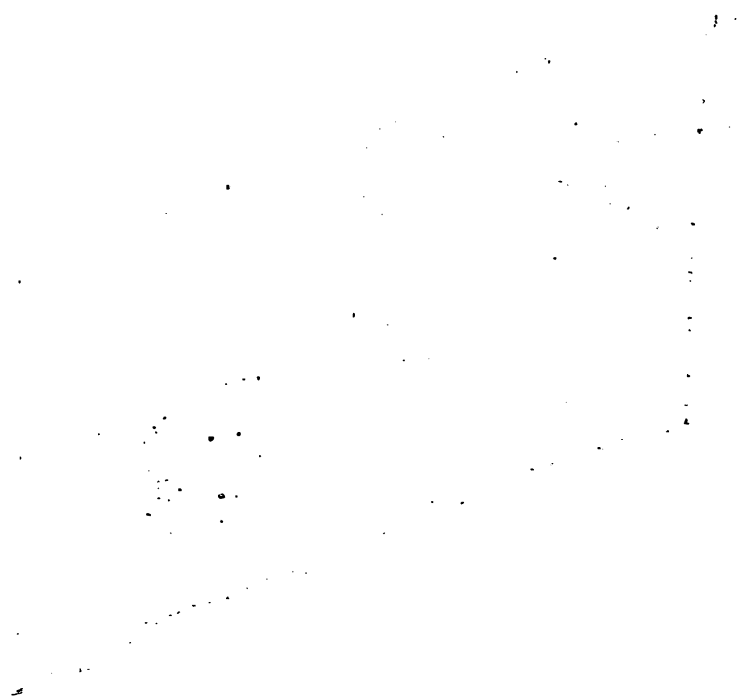
3. Canada is under no constitutional or moral obligation to enter upon wars with the making of which she has nothing

to do, and which may not only be opposed to her interests but subversive of her political existence.

4. Canada, therefore, may or may not take part in British wars. She may do as she likes.

5. In form and appearance, Canada is a part of the British Empire.

6. In reality, she is not. She is not a part of the dominant state, and she is not a subordinate state. She is a "sister nation," bound to her sisters by the ties of respect, of sympathy, and of friendship, and by the tie of common allegiance to a common Sovereign.





THE CANADIAN FLAG

## THE CANADIAN FLAG

THE Union Jack is the jack or symbol of the union of England, Scotland, and Ireland. It is a compound of the individual jacks of the three kingdoms. When England and Scotland united, the crosses of St. George and St. Andrew were amalgamated; when Ireland joined the union, the cross of St. Patrick was compounded with the other two; and now all three may be seen upon the Union Jack. If by any other adhesion the union were further expanded, the flag of the newcomer would be incorporated with the Union Jack. A flag should denote correctly the sovereignty which it represents. And if Imperial Federation should ever be consummated,—if instead of a British Empire, consisting of one dominant state and a conglomeration of subservient states, we should ever have a federal union of all or many of these states,—the flag which had symbolized the union of England, Scotland, and Ireland would be quite inappropriate and altogether inadequate for the representation of the new sovereignty.

The flag of a country is properly used not only within its own geographical limits, but wherever its ownership and jurisdiction extend. Over every subject country, the metropolitan flag is properly flown. When the United Kingdom takes possession of some hitherto unappropriated territory, her officers hoist her flag in assertion of her sovereignty. The flag symbolizes ownership and jurisdiction. Where these are absent, the flag has no right to fly.



At one time Canada was within the ownership and jurisdiction of the United Kingdom. The Union Jack was then her fitting flag — it truly indicated her subjection to the country whose flag it was. But it is not now as appropriate as it was. It is rapidly becoming still less so. And instinctively — to almost all of us quite unconsciously — our national aspirations have been urging us to the adoption of some symbol which would represent our Canadian nationality.

Almost immediately after our federation in 1867 — that great union which made Canadian nationality possible — our ship-owners commenced the practice of placing the heraldic arms of Canada as a badge upon the fly of the red ensign.<sup>1</sup> They had no right to do so. Their ships were British ships, and ought to have carried the flag prescribed by the Admiralty.<sup>2</sup> But the Admiralty at first made no objection to the practice. On the contrary, a notification was sent by its Board to the Colonial Office (May 22, 1874) to the effect that

“no objection would be raised to any vessel registered as belonging to one of Her Majesty’s colonies flying the red ensign with the badge of the colony in the fly.”

The Admiralty soon changed its mind and on the 25th of July of the following year intimated to the Colonial Secretary

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<sup>1</sup> The red ensign is the flag of the British mercantile marine. It is a red flag with the Union Jack in the upper left-hand corner.

<sup>2</sup> It must not be thought, however, that there was no precedent for defacing (to use heraldic phrase) a national flag with a private badge. For example, in 1868 (December 16) the Colonial Secretary notified the Governor-General that colonial government ships, used under 28 Vic. c. 14, s. 3, “shall use the blue ensign with the seal or badge of the colony in the fly thereof.” By an imperial Order-in-Council of August 7, 1869, it was provided that colonial Governors were “to fly the Union Jack with the arms or badge of the colony emblazoned in the centre thereof.”

that the only proper flag for the colonial mercantile marine was "the ensign without any badge."

Canadian ship-owners took little notice of this inhibition, and finally an imperial statute<sup>1</sup> was passed to put us straight:

"1. The red ensign usually worn by merchant ships without any defacement or modification whatsoever is hereby declared to be the proper national colors for all ships and boats belonging to any subject of Her Majesty, except in the case of Her Majesty's ships or boats or in the case of any other ship or boat for the time being allowed to wear any other national colors in pursuance of a warrant from Her Majesty or from the Admiralty."

"6. Nothing in this Act shall affect any power of the Admiralty in respect of the red ensign usually worn by merchant ships."

Canada was notified of the passing of this statute (October 3, 1889), and at the same time was informed that there would "be no objection to colonial merchant vessels carrying distinguishing flags with the badge of the colony thereon, *in addition* to the red ensign."

That was not, however, what Canada wanted, and an application was made (June 30, 1890) under the provisions of the statute

"for the issue of a general warrant which will permit Canadian registered ships to fly the red ensign usually worn by merchant ships with the Canadian coat of arms."

Objection being made, the Canadian government passed an Order-in-Council (October 31, 1890) in support of the previous application, and Sir Charles Tupper wrote to the Governor-General (Lord Stanley) on November 13, 1890, saying that:

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<sup>1</sup> 52, 3 Vic. c. 73.

"Since about 1869 our ships have been encouraged by the government of Canada to use the red ensign with the Canadian coat of arms in the fly. . . . These ships are in every quarter of the globe."

Afterward (November 7, 1891) Vice-Admiral Watson, then stationed at Halifax, wrote to the Governor-General:

"I have read with much interest the correspondence relating to the Canadian flag. It will certainly be a great pity if the home government insist on its abolition. As a matter of feeling and sentiment, I know for certain it will cause very great dissatisfaction in the colony, and I can see no good result from the enforcement of the order; but on the contrary I think a change enforced might give rise to trouble and will certainly cause general ill-feeling. They are proud of their flag, and their pride in my opinion should be encouraged and not dampened."

The Governor-General took the same view, and in writing to the Colonial Secretary (December 12, 1891) referred to the use of the red ensign with the Canadian badge not only at sea but on shore, where its appearance had become somewhat general:

"It has been one of the objects of the Dominion as of imperial policy to emphasize the fact that by Confederation, Canada became not a mere assemblage of provinces, but one united Dominion, and, though no actual order has ever been issued, the Dominion government has encouraged by precept and example the use on all public buildings throughout the provinces of the red ensign with the Canadian badge in the fly.

"Of course it may be replied that no restriction exists with respect to flags which may be hoisted on shore, but I submit that *the flag is one which has come to be considered as the recognized flag of the Dominion, both ashore and afloat*, and on sentimental grounds I think there is much to be said for its retention, as it expresses at once the unity of the several provinces of the Dominion and the identity of their flag with the colors hoisted by the ships of the mother country."

Lord Stanley added that the enforcement of the order "would be attended with an amount of unpopularity very disproportionate to the occasion, and at a moment when it is

more than usually important to foster rather than to check an independent spirit in the Dominion which, combined with loyal sentiments toward the mother country, I look upon as the only possible barrier to the annexationist feeling which is so strongly pressed upon us by persons acting in the interests of the United States."<sup>1</sup>

Thus pressed, the Admiralty gave way (February 2, 1892), at the same time retaining its opinion that

"there are not unimportant objections to interference with the simplicity and uniformity of national colors. Whatever is conceded to Canada will almost certainly be claimed by the other colonial governments."

The warrant issued by the Admiralty (February 2, 1892) is as follows:

"We do therefore by virtue of the power and authority vested in us hereby warrant and authorize the red ensign of Her Majesty's fleet with the Canadian coat of arms in the fly, to be used on board vessels registered in the Dominion."

The Admiralty's warrant was, of course, limited to the use of the flag on vessels. The Admiralty has no control over its use on shore. That is a matter for Canadians themselves. From their own flagstaffs they may fly what they please.

Disrespect to the Canadian flag has been exhibited on two occasions: In 1895 at Bermuda the master of the Canadian schooner *Emma S.* received the following note from the Colonial Office there:

"I have to inform you that your ship having entered Hamilton harbor with a red ensign with a badge thereon flying, contrary to the provisions of section 1 of the Imperial Merchant Shipping (Colors) Act 1889, the officer of the Customs at this port ordered the flag to be hauled down and handed to him, which was accordingly done."

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<sup>1</sup> At the Dominion elections of 1891, the question of closer trade relations with the United States was the principal issue, the Liberals strongly advocating a policy of unrestricted reciprocity.

An equally ill-informed official — Her Majesty's consul at Rio Grande do Sol, Brazil — compelled the master of the *M. J. Taylor*, in 1904, to remove the Canadian badge from his red ensign. Upon both occasions the officials underwent correction; the *Emma S.* got back her flag, and the consul sent an apology.

The Canadian flag — the only flag authorized for distinctively Canadian use — is this red ensign with the Canadian badge in the fly. Its first appearance on Canadian vessels was an irregularity. With some difficulty imperial sanction for its use at sea was obtained. Improperly, but with increasing frequency, it has appeared upon land; has been displayed upon our public buildings; has been encouraged by our government both "by precept and example"; and has at length been referred to by a Governor-General as "the recognized flag of the Dominion both ashore and afloat."

This Canadian flag very appropriately symbolizes and expresses Canadian constitutional position; for the Union Jack in the corner indicates our political origin and present affiliation, while the Canadian coat of arms in the fly denotes the severance of the umbilical cord and the commencement of independent national life.

The equivocal use of the flag on shore has its parallel and its explanation in the ambiguity of our political status. Were we, in fact as well as theory, a part of the British Empire, we should of course fly the flag of the Empire alone — the Union Jack, the symbol of our subordination. And were we, in theory as well as fact, an independent nation, we should fly no flag which did not clearly express our status and our nationality.

In 1776, after the thirteen American colonies had commenced concerted action, but prior to the Declaration of Independence, Washington (January 2) hoisted a flag in-

dicative at once of continued allegiance and of independent action — a flag of thirteen stripes of alternate white and red on a blue ground, with the Union Jack in the upper left-hand corner. Six months afterward the Union Jack disappeared, and the “new constellation” of thirteen stars took its place. The greater freedom which Canada enjoys, the easy concession to her in more recent years of her every wish, the frank acknowledgment of her independence in every department of political life, and her admission to the councils of the Empire upon terms of perfect equality, have deferred indefinitely, if not removed forever (who can say?), all thought of any flag which failed to indicate Canadian veneration for the flag of their youth — the flag of the greatest and the best of all historic empires.

. On the other hand, Canada's self-respect requires that her acknowledged right of independent self-government, her accession to national rank, and her admission to a footing of equality with the United Kingdom itself, should not only be amply recognized in imperial conferences, but should be evidenced by her flag — by the flag of the Dominion of Canada.

Canadians who see something sinister if not altogether disgraceful and abominable in the suggestion of a Canadian flag may be helped by perusal of a press despatch from London of July 8th last:

“Premier Botha and the Colonial Office have approved the new Transvaal flag, which is the Vierkleur with the Union Jack in the corner.”

The Vierkleur was the Transvaal flag before the war.



## CANADA AND THE CANADIAN CLUBS<sup>1</sup>

WHY is there so little national sentiment in Canada?

Primitive men (or wolves, for that matter) recognize that their safety and efficiency depend upon loyal combination. As the tribe expands through various gradations into a nation, this conviction continues. There is not the same ever present demonstration of its foundation, but its true basis remains. It has been fostered, moreover, by song and story, by united victory and common disaster; it has become a mental and emotional habit; it has become a passion — often, I am afraid, an obsession or monomania, and in its worst but somewhat frequent form, a megalomania.

Why, then, is there so little national sentiment in Canada?

It is unnecessary for my purpose this evening to inquire whether, under ideal conditions, national sentiment is beneficial — whether, indeed, there could then be such a thing; for if we are to love our neighbors as ourselves, everybody, including ourselves, will be placed upon a footing of absolute equality of affection. We are not in the millennium; and I am afraid that I, for one, would find it a little monotonous if we were. On the contrary, we are in a somewhat selfish and harsh sort of a world, and we have to play the game of contention and strife under protestations of brotherhood and Christian love, and with our beaks and claws in finest contentious condition. For fighting effectiveness (either in its secular form of life destruction or in its more distinctively modern aspect of commercial competition), organization, and

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<sup>1</sup> The Winnipeg Canadian Club inaugural address, 1904.



consolidation, and unity of interest, are prime requisites. In other words, for present conditions a national sentiment is an essential concomitant of national life.

Then why is there so little national sentiment in Canada?

One reason, no doubt, is our dual race origin, emphasized as it is by a concurring line of religious difference. In earliest times, union, or even sympathy, between different races was impossible. Education has done much to mitigate national antipathy, and upon occasions there may now even be some international ebullitions of occasional friendships. But between the good-will of temporary alliances, acclaimed in after-dinner speeches, and the fundamental identity of interest, and thought, and aspiration necessary to the existence of a national sentiment, there is an exceeding wide gulf.

English and French across the ocean have been traditional enemies. We may hope that for the future they will remain at peace. But we cannot tell. To-morrow may see them once again engaged in mutual, devilish slaughter. English and French in Canada have been and are friends; but they are in origin, nevertheless, English and French. They have not the same history, the same religion, the same laws (altogether), or the same methods of thought; they speak different languages, and they are to some extent out of sympathy with one another, and even suspicious of one another. A very prominent and able member of Parliament, lately deceased, thought that the bayonet would yet compose their differences, and was not unwilling to see an immediate appeal to that method of settlement.

One of the few things for which we must thank party politics is that no Canadian statesman, desirous of office, can publicly agree with that gentleman. They all want votes, and they must all, therefore, have, or profess to have, sympathy with both races. The way to power lies along the

road upon which both English and French are content to travel; and the politicians are very unhappy when it becomes impassable. Upon such occasions the nationalities diverge, luckily to meet again when the obstruction has been passed. But the politician cannot in the meantime accompany both parties, and he is in much trouble.

Adroitly as possible he skips across from one to the other, shows himself, hurries back, and swears that he was never absent, that he has been misrepresented and maligned, and that his opinion is — well, his opinion is that — is that — that his opponents ought to declare clearly what in reality their views are. Let there be no beating about the bush. As for him he is not ashamed of his opinions, and he intends to maintain and act upon them at all hazards.

It is a poor game this: trying to make people believe that you are not skipping; that you are following with steady and unswerving step the identical road that each particular audience is travelling. But after all, if, as a mere result of the politician's desire for a quiet and prosperous life, the roads are kept as close together as possible; if their reunion is hastened; and if other obstructions are by wise prevision and timely action removed; and if English and French from decade to decade, finding themselves harmoniously treading the same road — the road which runs along the line of Canada's best development and highest interest — learn to trust one another, even finally to coalesce with one another, we shall have to thank very largely the wisely compromising spirit of the statesman, inspired possibly by the election necessities of the party politician.

A second reason for the absence of Canadian national sentiment is the geographical relationship of the various provinces. We are all east and west of one another. Common lines of longitude are almost unknown. Add to this fact

that interposed, here and there, are long stretches of water, of mountain and of waste land, and the force of this second reason becomes very palpable and unfortunately most potent.

Are there any other reasons? The shortness of our association is sometimes pointed to. But note that the German and Italian consolidations are still more recent, and yet in neither of these countries is there any lack of national sentiment. It may be replied that the German federation was formed at the end of a successful war, in which all the constituent parts had shared, and that that fact differentiates the cases. Yes, but observe Italy. For many years prior to her consolidation she had been struggling for it, and when it came it was preceded by military operations hardly more serious than a parade. Why had not the Canadian provinces shown the same desire for unity? Why did Nova Scotia vote against it?

It cannot be said that nationalism has not stirred the hearts of some of our people. The voice of the Canadian patriot has never been quite silent; but hitherto it has been usually the voice of one crying in the wilderness. Let me remind you of the somewhat notable appearance of the "Canada First" party under the leadership of Mr. W. A. Foster, of Toronto. A man of literary and poetic instincts, his imagination was fired by the consummation of the federation of the four provinces in 1867. He realized, as few others did, the grandeur of the country itself, and the magnificence of its future; and he strove to rouse his countrymen to a proper sense of their importance and dignity. After some preliminary review articles, he produced in 1871 the memorable pamphlet entitled "Canada First." It had such effect that in 1873 "The Canadian National Association" was founded, with "the cultivation of a national sentiment" as its object, and 1874 witnessed the institution of "The National

Club," which still exists; *The Nation*, a weekly review; and *The Liberal*, a daily newspaper. It had been hoped that Mr. Edward Blake and Mr. Thomas Moss would join in the leadership of the movement, but Mr. Blake took office in 1875 and Mr. Moss retired to the Bench. Canada as a whole was irresponsive, and Mr. Foster reluctantly gave up the task. It was at that time impossible of accomplishment. *The Liberal* lived for about a year, *The Nation* two years, and then all was quiet again. Mr. Foster himself died in 1888, and as Mr. Goldwin Smith says:

"The idea, for the time at least, died with him; the movement, if it did not end its march, halted at his grave. It must be owned that even before his death the light of the idea had been growing pale, and the pace of the movement had become slow."

Mr. Foster made the fatal mistake of linking his prime object, "the cultivation of a national sentiment," with the establishment of a new political party. The result was, as might have been foreseen, that the two existing parties united against him. He and his associates were denounced "as annexationists, independents, and know-nothings," and referred to by the *Mail* as "beardless boys," by the *Globe* as "sucking politicians," and by the *Leader* as "sucking traitors." The first general election (1874) sufficed to demonstrate the futility of the attempt to oust the traditional parties; and "Canada First" fell, "the cultivation of a national sentiment" was discredited, and its realization indefinitely postponed.

It is possible that Canadian sentiment is not yet ready to crystallize. That it has found lodgement in the hearts of a very much larger number of our people than at any previous period of our history, is plainly evidenced by the establishment of so many of these Canadian Clubs, by their enormous

membership, by the largeness of the attendance at their meetings, and by the enthusiastic eagerness which they display for information and enlightenment upon all points connected with their country. These clubs must be taken as an indication of the awakening of that instinct of unity and nationality which manifests itself in the history of all nations.

The question, however, is still unanswered: Why is there so little national sentiment in Canada? Making all allowances for the hindrances already referred to, students of the rise and development of nationalism, commencing slowly as the Roman grip loosened and culminating in the last century with the German and Italian unions, must give a better answer to the question. The reasons thus far mentioned are inadequate.

I asked a few minutes ago: Why did Nova Scotia vote against Canadian federation? The answer to the question will help us to solve the problem we have under discussion.

What gave rise to the formation of other federations and confederations? What was the object of the Achean League, the Smalkaldic League, the Hanseatic League, the Germanic Confederation, the German Empire, the Kingdom of Italy, and so on? Why do wolves associate, and primitive men band themselves together? Primarily and principally, no doubt, for mutual protection. Individuals, indeed, may enter into partnerships for purposes of trade, or with some other monetary object. But communities do not coalesce for financial reasons. In fact, arrangement of financial terms is more frequently an impediment than an aid to union — as we may observe in our negotiations with Newfoundland. Desire for protection is with states the effective constraining influence.

Then what inducement could have been held out to Nova Scotia? She considered herself as already protected. The

ocean and the British fleet were her safeguards. The usual reason for federation was absent. Nova Scotia felt that she was safe under powerful sheltering wings, and she was un-urged to national effectiveness by the customary spur. She was withdrawn from the stress of struggle; her survival was not to be dependent upon her own fitness, but upon that of a people with whom she exchanged a steamer a week.

It is said that, of all sorts of governments, autocracy is the best, if you can find a perfect autocrat. I do not believe it. Upon the contrary, I am convinced that the more perfect and efficient the autocrat, the worse he is for his people. Do everything for a child, and you may make an idiot of him. Make him do everything for himself, and you will raise him to his highest attainable possibility. Let him tumble, so that he may learn to walk. Let him take risks of drowning and much else, that he may learn to swim and protect himself. Why are Laplanders unprogressive? Because they have withdrawn beyond the reach of competition. What stirred up the Japanese, and what is awakening the Chinese, but the necessity for national coöperation? No people can elude the cosmic law that fitness comes by survival — a survival, not by escape from struggle but by victory in it. In biological evolution we are told that the birds sealed their fate when they took to the air; they found safety in flying rather than in fighting, while man's progenitors remained on earth and sought success through cunning and combination.

Nova Scotia, had she been left to her own resources, would have been glad to enter federation with her neighbors. Being sheltered and protected she saw no necessity for it, and she protested in her elections almost unanimously against it. She had not experienced the stirrings of free nationality, nor felt the necessity for association.

You have now, probably, anticipated my view of the reason for the poverty of national sentiment in Canada. We note our racial and geographical difficulties, but we must admit that these reasons do not suffice; for it is very clear that if Canada were absolutely alone in the world she would at once develop a Canadian consciousness, and with it a Canadian sentiment. Independence means responsibility; responsibility, self-reliance; and self-reliance, the sentiment of nationality.

We have little national sentiment because we are not a nation. Being a dependency we have, naturally enough, the feelings of dependents. But as the boy has in him something of the man, struggling to assert itself, so has a colony some of the emotions of nationhood; and the closer each of these is to maturity the more marked and apparent become the indications of full development.

At present we are distracted. Our unofficial orators have held up to us, not Canadianism, but Imperialism, and their failure to achieve success is similar to that of those who endeavor to love God and yet remain out of sympathy with their fellow-men. How can Canadians love the British Empire which they have not seen when they do not love their own country which they have seen? Is Ontario to have more sympathy with New South Wales than with Nova Scotia, or Quebec more affection for British Guiana than for British Columbia? Love, as Henry Drummond has taught us, commences with the family unit, and by habit and association gradually and slowly expands. Some people would start Canadian affection "imperially," and I am afraid even fix it there. No, we must have a Canadian sentiment first. It is a prerequisite of all Imperialism. As Mr. Sandford Evans has said:

"From a common Canadianism the forward movement must begin. This principle must be accepted and acted upon even though the patience of some of the new Imperialists be tried."<sup>1</sup>

We must ourselves be harmonious before we can join harmoniously with others. If after forty years of practice we cannot keep in tune with our seven selves, how are we going to get on with singers from all over the world with voices quite unlike our own?

I suggest nothing but that it is futile and foolish to endeavor to change human nature. I observe that in Britain "the interests of the Empire" are conceived as "the interests of the United Kingdom," and that the special interests of Canada enter very little into the estimate. I do not complain of that, for it is absolutely unavoidable. That great writer on "The Government of Dependencies" (Sir George Cornwall Lewis) says truly that

"the evils arising to the Dependency from the ignorance of the dominant country respecting its concerns are enhanced by its indifference. Not only does the dominant country know little of those concerns, but it has little desire to know anything of them. Men's sympathies are in general too narrow to comprehend a community which is distinct from their own, although it may be ultimately subject to the same supreme government. Accordingly the maxim that government exists for the benefit of the governed, is generally considered by the individual subjects of a supreme government as applicable only to themselves; and it is often proclaimed openly that Dependencies are to be governed not for their own benefit but for the benefit of the dominant state" (pp. 247, 248). "In this manner," he adds at another page, "the people of the Dependency become the sport of questions and interests in which they are not concerned, and the nature of which they do not understand" (p. 276).

That is all perfectly inevitable, and I do not complain of it. But we shall go stupidly wrong if we, too, are induced to

<sup>1</sup> "The Canadian Contingents," p. 324.



regard "the interests of the Empire" as the interests of the United Kingdom merely. It must be our part, and our duty, to widen the knowledge and the sympathies of the dominant country by assertion and insistence upon the interests of Canada, so that treaties, and declarations and prosecutions of war may have some relation to their effect upon us and upon our country. We are "the sport of questions we do not even understand"! How many of us understand why Canada should engage in a life and death struggle with Russia or France or the United States for the sake of helping the Japanese whom, by our policy, we exclude from our shores? Nevertheless, as Sir George Cornwall Lewis says of a colony,

"its trade may be disturbed, its merchant vessels exposed to the risk of capture, and its territory even made the theatre of war, without its having done anything to provoke hostilities, or having had any means of preventing them, and although it is only, as it were, a formal party to the dispute" (p. 277).

Let me not be misunderstood. I am not an advocate of independence, if by that is meant separation from the British Crown. Upon the other hand, I am not an Imperial Federationist. I do not know even what it means. In political science it is a contradiction in terms; and the various propositions of its advocates, after slight discussion, have all been dropped. Even Mr. Chamberlain's suggestion for an imperial Court of Appeal was officially withdrawn; and to-day there is no proposal of any kind before us for consideration. My desire is that Canada shall be a nation, in the true sense of that term — "self-existent, autonomous, sovereign," and "capable of maintaining relations with all other governments" — a nation with the British King as its only and all-sufficient head. We shall then, and not till then, have a developed national sentiment in Canada.

It is well, indeed, that for the past few years these Imperial Federation schemes should have been debated, for we now understand them, and through them we have obtained some insight into the true nature of our situation. Their withdrawal has turned a less divided attention upon ourselves; and we are again thinking of "Canada First," better equipped than ever before for its proper and patient study.

This, in brief, is my theory of these Canadian Clubs: Canadian Federation appealed to the imaginations of a few in Toronto; some seed was sown, but it fell among the thorns of party politics and the thorns sprang up and choked it. Imperial Federation offered its dream of a Parliament, if not of the world, at all events of a very great part of it; but while Imperialism remains as a great and significant force, Imperial Federation is at an end. Then came the Boer war, and, simultaneously with it, a most remarkable expansion of Canadian prosperity. Suddenly we found ourselves recognized as of some importance in the world. We had been accustomed to place our trust in our metropolitan, and we found that it had to appeal to us. We had been trained to unbounded faith in the British army, and we found that our men were at least as good as they. We had received visits and heard addresses from many British statesmen, and we learned that seldom has any man ever so impressed British audiences as the Premier of Canada. We had almost resigned ourselves to the annual emigration by thousands of our people to the United States, and we discovered that they and many others were entering Canada by tens of thousands. We had made but little progress in trade and manufactures, and month by month we saw the figures mount until in seven short years they had doubled.

Is it any wonder, then, that Canada at last commenced to believe in herself, to feel the thrill of national life, and

to seek for expression of it through Canadian Clubs? That, gentlemen, is in my opinion the explanation of these clubs.

But more important than the reasons for their birth is the answer to the question, What shall they do? Allow me to sketch the reply which I would give.

Perhaps we might say with Mr. Foster that their chief object is "the cultivation of a national sentiment." Emotions, however, are not cultivated, like cabbages, directly, but by doing those things which will produce the emotions. Seek happiness in itself, in anything but good, and you will find that out. Then what are we to do?

Very generally, we must try to understand ourselves and our relations to others. I am aware that a great many people, who probably never heard of the difference between a federation and a confederation, imagine that they are now sufficiently instructed for the formation of opinions upon all points connected with Canada's political existence and relations, and are ready to announce those opinions at once. But I must ask for a little forbearance if I suggest that some of these men have notions, probably inherited, like the shapes of their noses, but cannot properly be said to have opinions. And I should like briefly to indicate some of the subjects to which, as I think, the special attention of Canadian Clubs should be devoted.

First, then, let us know about Canada. Let some speakers tell us of our geography; of our physical characteristics and capacities; of our mines and our forests; of our farms and our orchards; of our lakes and our rivers. Few of us know very much about any province but our own and possibly one other. Let all be made familiar to us.

Let others teach us our history. Some will relate the story of our wars; others of our constitution; others of our material development, and our progress in literature, and art,

and general culture. We shall not understand Canada until we know her history.

Let us study our present political status, and our legal relation to the rest of the Empire. Are we a nation, as is now so frequently asserted? Are we even a self-governing colony? If not, in what respects are we still under subjection? And is it compatible with the present importance and dignity of Canada that she should longer acquiesce in outside control of her own affairs?

Then, inasmuch as we are a part of the British Empire, we ought to know something about that great Leviathan. Many of us are, I fear, but poorly informed upon the subject. I would that some one, commencing at the reign of Queen Anne, say two hundred years ago, when the Empire consisted of little more than the Channel Islands, should, with the help of Sir John Seeley and other writers, recount to us the history of British expansion; and that he should make as clear to us as he can the oft-asserted difference between the grasping aggressiveness of the Russian, for example, and the natural, heaven-appointed growth of Anglo-Saxon domination.

And let us endeavor to form some idea of Imperialism, and the part that Canada ought to play in it. This is an admittedly difficult and complex subject. No man can as yet fully appreciate its meaning, tell its purport, or foresee whereto it leads, and wherein it shall have its accomplishment. The nations of the world are in a raging stream. Nationalism has reached its full fruition, and the leadership, not of the clans of Scotland, or of the states of the Hephtharchy, or of the Italian cities, or even of the rival parts of the Roman Empire, but leadership of the whole world is now the prize to which all alike aspire. Almost incalculable amounts of money are annually expended in preparation for the gigantic conflicts which may at any moment commence,

and men of all languages are being diligently fitted for fighting. Even the United States, with its Monroe seclusive and exclusive principles, has been caught in the swell of the flood, and, under the usual pretext of the necessity for defence, has already carried her conquests beyond her border and laid the foundations of empire.

So far Canada has remained unmoved; and, save for some little participation in the Boer war, has acted purely upon lines of self-defence. What is to be her policy for the future? Without participation in imperial councils, without effective voice in the policy which may lead to war, is she to be always ready, not merely to guard herself, but to send her sons anywhere, to fight anybody, and for any reason? Is she in sympathy with the form of Imperialism which induced the Chinese war, the Zulu war, the Afghanistan wars, the Boer war, the Tibet war, and so on? Without consultation she now finds herself bound up in a war treaty with Japan, aimed principally at Germany and France. Is it certain that Canada would have agreed to engage in war on behalf of Japan and against France? Would any statesman in Canada approve of such an arrangement? Would any one suggest that Canada's resources in men and money should be devoted to any such purpose?

If not, then, as we separated ourselves commercially from the United Kingdom, are we also to think and act for ourselves in matters pertaining to war? What is to be thought of Sir Wilfrid Laurier's pronouncement in the House of Commons on the 15th of April, 1902, just before leaving for England to attend the Imperial Conference?

"We are invited to discuss the commercial situation, the political situation, and the military situation. Our answer has gone forth at the same time, that we see little advantage in discussing the political situation, or the military situation.

. . . It would be a most suicidal policy for the Canadian people to go into any scheme of that nature. It would be the most suicidal policy that could be devised for Canada to enter into that vortex in which the nations of Europe — England included — are engaged at the present time, and which compels them to maintain great military armaments. . . . The principal item in the British budget is the expenses for naval and land armaments. . . . Now, my honorable friend<sup>1</sup> says that Canada should follow in the same course, that she should take part in the scheme of imperial military defence. Sir, Canada is in a different position. Canada is a nation with an immense territory, but with a sparse population of five and three-quarter millions of souls, scattered over an area of three thousand miles in extent from east to west. The principal items in the budget of Canada are what?—public works, the development of the country, the construction of railways and harbors, the opening up of ways of transportation. This is the work to which we have to devote our energies, and I would look upon it as a crime to divert any part of that necessary expenditure to the supply of guns, cannon, and military armaments.”

Bearing in mind that these are the words of the Premier of Canada; that they were intended as a declaration of Canadian policy in reply to a request from the United Kingdom to discuss military relations; and that no exception was taken to them, either by the leader of the Opposition, who spoke in the same debate, or by other challenge, the pronouncement may be regarded as the formulation of a partial and tentative Monroe doctrine for Canada. And the question is: Shall it be accepted by the Canadian people? At the time of its enunciation it passed almost unnoticed. Was that because we all agreed with it? I regard the pronouncement as the most important that has ever been made in the Dominion House of Commons. Let Canada discuss it and definitely adopt or reject it.

A recent speaker, before the Mulock Club in Toronto, used the following language:

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<sup>1</sup> Mr. McLean, a private and somewhat independent member.

“There is a growing feeling that Canada ought to bear her fair share of the burden of imperial defence. Canadian shipping and interests abroad are now defended by the British navy at the expense of the taxpayers of England, Scotland, and Ireland. In the Behring Sea matter, for instance, the seizure of Canadian ships was prevented solely by the presence of British ships of war in the Pacific. The United Kingdom paid the expense; Canada received the benefit. Ordinary self-respect will prevent Canadians allowing this state of affairs to continue permanently.”

Is that true? Let us carefully inquire, and if so, let us make our calculations and hand over our conscience money without the least delay. The charge is of the most serious character. It directly affects the honor of every Canadian, and there is, therefore, no fitter place for its consideration than in a Canadian Club. Let some one of our members investigate it and report to us. Let him give us the names of any Canadian vessels that have been defended by British ships. Let him tell us in what sense Canadian shipping is “now defended by the British navy.” Ships of all nations, the smallest as well as the largest, sail the seas in time of peace without protection from navies. Are Canada’s ships an exception? Did the speaker mean that Canadian ships would be protected in case of war? If so, before challenging our self-respect, he might have noticed that the war would not be of our making, probably not in our interest; that the assistance which we would be expected to render would far overbalance any contra account; that the ship-protection would very likely be confined to vessels trading to the United Kingdom, and that the activity in that direction would be essentially necessary for Britain’s own safety. Starvation would soon end her war if she failed efficiently to police the home trade routes.

Let our inquiring member devote himself particularly to

the suggested example of British protection, namely, the Behring Sea affair. Is it true that "the seizure of Canadian ships was prevented by the presence of British ships of war in the Pacific"? Or is it more true that seizures of our ships were made by the Americans in 1886 and 1887, and our captains and mates not only fined but imprisoned for nothing but sealing on the high seas among the waves that Britannia rules; that during these years the British ships of war did nothing, and the Foreign Office did nothing more belligerent than enter the mildest protests at Washington; that in 1888, owing to negotiations for mutual regulations of the seal industry, the Americans agreed to give secret instructions to their cruiser captains to content themselves with warnings and threats as a means of keeping us at home; that in 1889 the seizures recommenced and five more of our ships were sent to Sitka for condemnation, while the British fleet remained at anchor and the Foreign Office sent over another protest; that on the 8th of August the Governor-General advised the Colonial Office that

"a sense of irritation is growing up in the public mind, not only against the government of the United States but against the imperial government," and that "the sealers may be driven to armed resistance"; "up to the present time," said Canada, "there has been every disposition on the part of the people to rely on the maintenance by the imperial government of the international rights which the Foreign Office is charged with the duty of protecting; four years have elapsed since the seizure of Her Majesty's sealing vessels was commenced by the United States, and the only result of protests has been a continuance of the policy";

that the answer sent by Lord Salisbury to the Governor-General was that, inasmuch as it was

"very unusual to press for diplomatic redress for a private wrong so long as there is a reasonable chance of obtaining it



from the tribunals of the country under whose jurisdiction the wrong complained of has occurred, Her Majesty's government considers that it would be in a stronger position for dealing diplomatically with the Behring Sea case if appeals on the cases of seizure which took place in 1886 were pressed on";

that Canada's reply was that the wrong complained of occurred in nobody's jurisdiction, but out on the high seas; that the Foreign Office then telegraphed to the Governor-General:

"Her Majesty's government communicated with the United States government with a view to preventing further seizures," and "instructed the British minister at Washington to write privately to Mr. Blaine and request him to send instructions to the United States cruisers to desist";

that the Canadian Minister of Marine and Fisheries (C. H. Tupper) reported that

"in view of the firmness with which the rights of British subjects on the high seas have been maintained in the past, the undersigned fails to appreciate not merely any reason for the long delay in obtaining satisfaction for the aggressive and hostile action exercised against British subjects and British property by the United States, but also for the wanton continuance of this treatment";

that at the close of this fourth season (November 2, 1889) we were told that

"Lord Salisbury proposes to await Sir Julian's [Pouncefote's] report before deciding as to what further steps should be taken in the matter" beyond "discussing the question with Mr. Blaine";

that in 1890 a more formal protest was sent to the United States, and, either because of it or because of negotiations for settlement, no seizures were then made; that in 1891 Lord Salisbury undertook that the British navy would assist the United States cruisers in keeping Canadian ships off that part

of Behring Sea claimed by the United States; that accordingly he sent war vessels to carry out his agreement; and that one of them, the *Nymph*, excused her ill-success on the ground that "the fogs greatly aided the sealing schooners in escaping observation"? Thanks to the fogs, we weren't captured by the British navy!<sup>1</sup>

What is truth? Is it the fact that

"the seizure of Canadian ships was prevented solely by the presence of British ships of war in the Pacific"? and that while "the United Kingdom paid the expense, Canada received the benefit"?

If so let us repay the money. Or was the protection of the same character as that given to the Newfoundlanders? namely, an assistance to their opponents — an assistance which resulted in an action at law by Mr. Baird (one of the Islanders) against the British commanding officer for illegally maintaining absurd French pretensions — illegally, I say, for the Judicial Committee of the Privy Council so said, and Mr. Baird got his damages.

And is it the fact that Canada, under the present conditions, is of no service to the British navy? Is the lecturer to the Mulock Club, to whom I have just referred, not right when he says:

"It has become a maxim that the existence of the Empire and the security of Great Britain depend on the maintenance of British sea power. Without such coaling stations as Halifax on the Atlantic, and Esquimalt on the Pacific, the maritime supremacy of British naval power would be seriously jeopardized. The secession of Canada from Great Britain would probably, therefore, spell the loss of naval supremacy by the British Empire and danger to the safety of Great Britain."

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<sup>1</sup> The number of Canadian ships seized by the Americans was as follows: four in 1886; eight in 1887; nine in 1889; one in 1891, and two in 1892.

And ought the expenditure on our transcontinental railways, connecting these two coaling stations, to be considered in making up the accounts?

This inquiry might very well be extended and a general account of mutual benefits made up. To offset, if possible, our present alleged meanness in not subscribing directly to imperial defence, let some estimate be made of previous contributions in order that we may see how the balance stands. Is Canada, for example, entitled to any credit, and if so for how much, for her assistance to the United Kingdom in previous wars? In 1775 the American revolutionary war (how foolish it was we now all know) devastated Canada, and, as Mr. Kingsford tells us,

“The only scrap of territory which remained, at one period, under British rule was the city of Quebec within the ramparts” (“History of Canada,” Vol. V, p. 483);

and although there was no second invasion of Canada, yet until the close of the war in 1781 the constantly anticipated invasion (Kingsford says)

“demanded the presence in the field of all capable of bearing arms”<sup>1</sup> (vol. vi, p. 436), resulting, as can easily be imagined, in “the interruption of industry and the blight of enterprise” (Vol. VII, p. 225).

In the American war of 1812–1815, Canada was largely the field of the operations. Although, as Mr. Kingsford says:

“The war was forced on Canada, as a member of the imperial system of Great Britain, without a single act of dereliction on her part, without even any sentiment of active unfriendliness,”

yet Canada put forth her full power in men and money in support of the motherland. What estimate is to be placed on this contribution to imperial necessities? Sir Gordon

<sup>1</sup> The statement must not be taken too literally.

Drummond, the then Lieutenant-Governor of Upper Canada, said to the legislature with reference to moneys voted by the House:

“However small a proportion they may bear to the requisite expenditures, you have the merit of giving all you had” (*Ib.* Vol. VIII, p. 437).

Again in 1866 and 1870 the Canadian militia had to defend their country against Fenian invasions — incursions not because of any ill-will to us, but because we were the nearest representatives of British rule. Our losses were properly chargeable to the government of the United States, upon the same principle as were American *Alabama* claims payable by Great Britain; but while Great Britain paid the *Alabama* millions, she declined to insist upon payment of our Fenian losses.<sup>1</sup>

Our contributions in men and money to the Boer war, too, must not be overlooked; and even smaller items, such as the *Leopard* and *Chesapeake* affair, and the *Trent* episode, must be estimated, for we are charged with dishonorable conduct and we must clear ourselves if we can.

As against all this must be set whatever there is of contra account, whether of military, or naval, or diplomatic protection. Let it be diligently investigated and let us be informed as to what it is composed of, and what it amounted to. Is it true, for example, as Sir Charles Dilke declares, that “British diplomacy has cost Canada dear”? And what is the correct answer to Sir Wilfrid Laurier’s question:

“Is there a Canadian anywhere who would not gladly welcome the termination of British diplomacy for Canada”?

And let us not be deterred from these inquiries by being told that we are haggling about mere money. We are not.

<sup>1</sup> The United Kingdom herself liquidated our claim for losses by guaranteeing payment of some of our bonds.

Our men have gone as well as our money, and our territory, too. And, moreover, it is about money that we are said to be in default. While the charge is so constantly repeated, it is our duty to investigate it, and to disprove it if we can.

Before suggesting one further subject for study, let me remind you of the character of the political problem that is before us. Sir George Cornwall Lewis produced his book on "The Government of Dependencies" in 1841, and, as his editor tells us,

"never contemplated that colonies, whose commercial relations with the mother country were precisely the same as those of foreign nations, could still remain part of the Empire" (Ch. xxxi).

Lord Durham, too, while advocating the grant of self-government to Canada, argued that

"the regulation of foreign relations, and of trade with the mother country, the other British colonies, and foreign nations," must be retained.

In other words, Canada's protective tariff of 1879 introduced into political science a dependency of an unknown type. For centuries Spain and England had, by navigation and trade laws, endeavored to monopolize the trade of their colonies; the revolt of the thirteen American states so shook the system that it was subsequently abandoned; and in 1879 Canada actually provided for partial exclusion of British goods in favor of her own, an act which necessarily led to separation from the United Kingdom with reference to foreign commercial arrangements, and also to the practical substitution of our own negotiators for British diplomatists.

And now we have a new thing in the world, namely, an Empire of which some of the dependencies have almost complete powers of self-government, interference with which

would mean separation; an Empire in which controlling legislation by the dominant state is impracticable and impossible; an Empire in which the component parts have diverse tariffs and are ready to treat and negotiate with one another (just as though they were politically distinct) for preferential rates, upon bases of self and separate interest; an Empire in which there is no common army and no common navy, in which subscriptions and contributions to war are not only unregulated but are of purely voluntary character; an Empire, in short, in which there is a Sovereign who reigns but may not govern, a supreme Parliament that must not exercise its functions, an imperial War Office and Admiralty without power over the most important dependencies, and subordinate states that do very much as they please.

Having studied all this, and having ascertained that our position is without precedent, we commence to see that the further development of our political history is a matter for most anxious and careful consideration. We have reached commercial independence; we have attained parliamentary independence; our union with the rest of the Empire through the British Crown remains intact; and the problem is to formulate new relations, for the old are clearly passing away.

As the future is always best studied in the experience not only of ourselves but of others, let some of the best of our members tell us of other constitutions, past and present. Let one take up the general subject with Dicey and Seeley and Pollock; let another study Lowell on parties and governments in continental Europe; another Bryce, on the Holy Roman Empire; another the "Federalist" and Bryce on the American commonwealth; another Lewis, Jenkyns, Greswell, and Hurlburt, on dependencies; another Freeman, Parkin, and Grant, on Imperial Federation, another — but

perhaps we have enough for just now; these writers and others upon the same subject will suffice for the present.

And in all our discussions let us have the prime requisite of advantageous study, an open mind. Let all who address us be received not only with toleration and patience, but with that respect due to those whom we invite to speak. Let us hear not merely, or even principally, from those with whom most of us might agree, but chiefly, I should say, from those men who have ideas of their own, who possess individuality resulting from study and reflection. Let the Canadian Club of Winnipeg be liberal enough to hear all things, intelligent enough to test all things, and strong enough to cleave unflinchingly to that which it deems to be good.

For the unpopular man may be the better patriot. The opponents of many a country's wars and other enthusiasms have been justified by time, and British history can furnish many examples of it. Who now agrees with George III and condemns Chatham and Fox and the other opponents of the American revolutionary war? Who is there that does not echo Lord Salisbury's words with reference to the Crimean war, "We put our money on the wrong horse"? And now that we have got the Transvaal and don't know exactly what to do with it, are we not already beginning to think whether some finer diplomacy, whether some Edward the Peacemaker could not have saved the expenditure of hundreds of millions of money, tens of thousands of men, and the anxieties and mournings of multitudes of women? Let me offer for your consideration some weighty words of Lord Hobhouse, a member of the Judicial Committee of the Privy Council:

"Large numbers of people think it unpatriotic to decide, or at least to say, that their own country is wrong in a dispute with another. Patriotism has nothing to do with the matter;

it is consistent with either view. Patriotism is a virtue which leads a man to sacrifice himself for the good of his country. It is not patriotism to flatter one's own countrymen, or to assure them that they are right in what they are doing. That is merely swimming with the stream, one of the most alluring forms of indolence. A man is not a patriot because he denies that the community to which he belongs shall be aggrandized at the expense of other communities to which he does not belong. To desire the success of a cause because it is his own, and not because it is right, is a form of selfishness. 'My country, right or wrong,' is no more patriotic than 'Myself, right or wrong,' is noble and unselfish. The man who will take pains to find where lies the right and wrong, or, it may be, the wise or unwise course; the man who, being convinced that the existing rulers of his country are wrong or unwise, has the courage to stand up and say so, who confronts rulers and penalties, legal or social, and frowns and sneers and howling multitudes — that man is the patriot, it is he who sacrifices himself for his country's good" (*N. Y. Independent*, August 26, 1900).

Let us in this club not be carried away by popular clamor; nor form our opinions from newspaper head-lines, or uninformed conversations. Let us strive to know what is best for our country, and, with that in view, patiently study our history, our institutions, and the lives of our great men. Let us know what they did, what they advocated, and what their success; even their faults and their failures may have lessons for us. And let us always put Canada before party, and our country above any class or section within it. Making use of the language of Mr. Sandford Evans's recent book, I leave you by saying:

"No time in the history of this country, not even the period when Confederation was the grand problem, had greater need of enlightenment and temperate statesmanship. That is the great need of the Empire to-day. The proselytizing zeal of those who see but one possible outcome, and admit but one interpretation of what has occurred, is not the desideratum;



nor is the subtle and insistent diplomacy of more masterful men. Frankness, directness, mutual consideration, and moderation will take Canada safely through the period of discussion which will dissipate the mists and the false sanctities and let in the daylight in which men see where they walk and walk because they see." <sup>1</sup>

My best wish for our Canadian Clubs is that they may help to let in the daylight.

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<sup>1</sup> "The Canadian Contingents," p. 331.

## RESPONSIBLE GOVERNMENT IN CANADA <sup>1</sup>

GREAT BRITAIN'S principal achievement, her greatest contribution to the world's progress, is to be found not in the realms of art, literature, or science (great as have been her accomplishments in these lines), but in the discovery and application of her system of parliamentary government. I refer, not to representative government, but to that rule of the game of political-party struggles which is called responsible government — the rule by which the administration of the day resigns its executive functions whenever it ceases to possess the confidence of the people as represented by the House of Commons.

The development of this rule has been slow — tediously, often exasperatingly slow — to the point of rebellion. From the autocracy of the Sultan of Turkey to the autocracy of the House of Commons, from the rule of one man to the rule of every man, is a very long distance requiring the progressive education in political rights of many generations.

And the road was a particularly difficult one. Not in the schools, nor by public advocacy could progress be made in dethronement of him who regulated the schools and the platform — not as long as on his side were the strongest members of society. His prohibitions were effective to the extent to which, at any time, use and wont, and fear of change, and religious conviction as to his divine right, were too strong for the growing democracy which was some day to shatter all

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<sup>1</sup> The substance of this article was delivered as an address to the Winnipeg Canadian Club, May, 1907.

those crude political conceptions based upon the division of the human race into governors and governed, with God himself as the framer of the lists.

The history of the development of responsible government is the history of a struggle, nominally between the Kings and Commons, but really between two sets of ideas, between two classes in the community — the one supporting prerogative and the other pulling it down, the one pleasantly known by the name of Loyalists, the other aspersed as Roundheads, Republicans, low-bred agitators, rebels, and traitors.

Our present notion of responsible government assumed its final form in Britain in the reign of George III, the power of the Pelhams and the popularity of Pitt rendering the Stuart form of government forever after impossible.

By the time constitutional government was conceded to Upper and Lower Canada, responsible government was well understood and fairly well established in England. Why, then, had the contest to be resumed in Canada? Why did we commence with Governors who appointed their Executives and maintained them in spite of their overwhelming denunciation by popular vote?

The explanation is to be found in the ideas prevalent as to the purposes and functions of colonies. The colonial system, the mercantile system, are names for the methods pursued by European nations — Spain, Holland, England — in the pursuit of over-seas wealth. Colonies were subservient to the purposes of the metropolitan; the trade was monopolized by it, and England even forbade manufactures within colonial territory. Not even a horseshoe (so Lord Chatham) could be made in the colonies, and a special statute preserved the hat trade to English makers.

If colonies were permitted to legislate for themselves, these metropolitan privileges would cease. While, therefore,

## RESPONSIBLE GOVERNMENT IN CANADA 101

popular government with responsible ministries was clearly the right thing in Britain, just as clearly it could not be tolerated in the colonies. The colonies must be kept to their rôles: (1) to furnish raw material to the metropolitan alone; (2) to consume the manufactures of the metropolitan alone; and (3) to receive and provide for the redundant population of the metropolitan.

So the struggle for responsible government recommenced in Canada. The forces opposed to it, however, were much weakened. The doctrine of the divine right of kings had been exploded; and no one thought of ascribing divine authority to Downing Street or to the Colonial Secretary.

Very soon the case became clear; the question was not one between the King and the Canadian people, but between the Canadian people and the gentleman who for the moment directed the Colonial Office in London and sent despatches to the colonial Governors. Even then there were always many Canadians who struggled against their own people; there were always many Canadians who thought that Canadian self-government had gone quite far enough—that Downing Street prerogative ought to be upheld, and the agitators put down.

Let us take a hurried glance at the struggle in Lower Canada. Having been accustomed to do as they were told, the French objected to the establishment of a popular Assembly, declaring that its purpose was *pour nous taxer*, and that it would itself have to be paid for. Forced into a system of representative government, they soon learned the game; ascertained the power of the purse; learned the use the British Commons had made of it; learned the relief from grievances that could be obtained by it.

But the Lower Canada Assembly was badly handicapped by the fact that its power over all its income was not ad-

102 RESPONSIBLE GOVERNMENT IN CANADA

mitted. Its possession of the whole of the purse was denied. Revenue was derived from three sources: (1) duties imposed by imperial statutes; (2) duties imposed by the Lower Canadian statutes; and (3) the casual and territorial revenues (sales and leases of lands, fees, fines, etc.); and the Colonial Office declared that the legislature had nothing to do with the first and third of these sources of supply.

The Assembly held but one-third of the purse; but that proved in skilful hands to be enough, for when the Governor asked the Assembly to vote money supplementary of the imperial revenues, the Assembly requested (in order that they might know what supplement was necessary) that they should be informed of the amounts of the imperial revenues, and *what had been done with them*. These accounts (when at last statements were furnished) the Assembly examined, criticized, and cut down, voting only sufficient funds to pay such accounts as they thought ought to be paid. For various years, indeed, they refused to vote anything at all, and the Governors were obliged either to filch from the army chest or illegally to spend provincial funds.

That went on until 1828, when after a long investigation by a committee of the British House of Commons, an elaborate report was adopted condemnatory of the administrative methods in Lower Canada, and particularly of the illegal assumption of the right to disburse provincial moneys without the assent of the legislature.

By 1831 the Assembly had obtained the acknowledgment of the right of the legislature to deal with the duties imposed by imperial statutes. Two-thirds of the purse were now theirs; but the lands were becoming valuable, and to checkmate the Assembly large tracts were sold to a land company and the proceeds used by the Governors as they pleased.

Lord Aylmer came in 1830 with the best of good intentions

and good-will, only to find that pleasant speeches would not be accepted as a substitute for self-government. Again no supplies; and in 1835 the celebrated ninety-two resolutions were voted by the Assembly, claiming amongst other things that the Upper Chamber (the Legislative Council) should be elected instead of appointed; and that the Executive should be a responsible Executive.

Lord Gosford arrived in 1835 with conciliation and fair words, but with instructions which prohibited substantial concession to these two demands. Concealing that fact, the new Governor promised investigation and consideration, and did very well until Sir Francis Bond Head (Lieutenant-Governor of Upper Canada) for the very purpose of embarrassing him, published the instructions. Again no supplies.

In April-May, 1837, the British Parliament intervened with a series of resolutions, one of which authorized the Governor to make use of all Lower Canada moneys without the assent of the Lower Canada legislature. Two other of the resolutions were as follows:

“That it is unadvisable to make the Legislative Council of Lower Canada an elective body, but that measures be taken to secure for it a greater degree of public confidence.

“That while expedient to improve the composition of the Executive Council, it is unadvisable to subject it to the responsibility demanded by the House of Assembly.”

In the summer of the same year, the Lower Canada legislature was summoned in order that the Assembly might make its submission to imperial will. It refused to submit. The rebellion came almost immediately afterward.

Next year (1838) the British Parliament suspended popular government in the province and intrusted legislative as well as administrative functions to the Governor and an appointed “Special Council” of not less than five persons. Lord Dur-

ham tried ruling in that way and produced another rebellion (autumn, 1838).

If you ask whether these rebellions were justifiable, my only reply must be that no authority has yet marked out the line beyond which a people capable of self-government are not bound to carry their submission. Perhaps the most potent immediate cause of the American Revolution was the suppression by the British Parliament of popular government in the State of New York. In Lower Canada the first rebellion was produced by the withdrawal from its legislature of that most essential characteristic of popular government, the right to spend its own money; and the second, by the abolition of the legislature. Few persons now say that the American Revolution was not justifiable. What must be said of the Lower Canada rebellion? The striking parallel between the two has heretofore (so far as I am aware) remained unnoticed.

Admitting that the incessant quarrellings between the Governors and the Assemblies, the jolting difficulties encountered upon the road from government by Governor to government by the people, were not and could not be sufficient ground for armed resistance to rapidly vanishing authority — admitting this, what must be said when dying prerogative suddenly flames up and abolishes its great enemy, the Assembly of the people's representatives? For less than that, one Stuart King lost his head, and another had to fly his kingdom.

Remembering that Upper Canadians were English-speaking, and recalling the incessant troubles of the Governors in the English colonies to the south, one might have expected that the Upper rather than the Lower Province would have made the stouter resistance to prerogative. That it did not is to be attributed to the fact that the most influential of the Upper Canadians were United Empire Loyalists (or the descendants of them) whose attachment to prerogative

had already been tried in fire. They were not men with average opinions. They belonged to a class.

Nevertheless they were strong men, and their leaders, while intensely loyal to British connection, were not disposed to take all their ideas from Governors, and to change them with each succeeding appointment to that office. Not without some show of reason were they called the Family Compact — a compact united in opposition to reforms in political relations and popular arrangements, but a compact somewhat jealous of gubernatorial influence and desirous of using prerogative for the furtherance of their own political policy. The fight was of the three-cornered sort.

The Reformers (although not then so called) had a majority in the Seventh Assembly (1816–1820). In 1817, the Governor for the first time had recourse to sudden prorogation in order to stop insubordination, and in 1818 and 1820 the Assembly refused to vote supply. The Eighth Assembly (1820–1824) was Tory (although not so called). The Ninth (1824–1828) was Reform; supply was refused in 1825 and 1828; resolutions assertive of right to control all revenues became annual; committees assumed to investigate administrative matters, to summon officials, to give evidence, and to send them to gaol for refusal to answer. The Tenth Legislature (1828–1830) was Reform; the Governor asked no supply, having sufficient revenue from sale of lands to pay all accounts; direct votes of want of confidence were passed in each session; the Governor-General became sarcastic; and the Assembly refused to permit a chaplain appointed by him to say prayers in their presence, etc. The Eleventh Assembly (1831–1834) was Tory — more clearly so after it had expelled Mackenzie. Nevertheless it, too, checked closely the Governor's accounts; reduced some of his figures; asked for further returns; voted to repeal the chaplain's salary; asserted the Assembly's



right to appoint its own officials. The Twelfth Legislature (1834-1836) was Reform — completely so, — and the instructions to the new Governor, Sir Francis Bond Head, declared that

“the supporters of the local government now for the first time found themselves in a constant minority upon every controverted question between them and their political antagonists.”

These were the years of Bidwell's speakership; of William Lyon Mackenzie's "Seventh Report"; of demands for responsible government; of the advocacy of it in London by Robert Baldwin from Upper Canada and Messrs. Crane and Wilnot from New Brunswick; of renewed refusal of supply.

Governor Head was courageous but vain and foolish. Determined to extinguish all "Republican and low-bred antagonists," he dissolved the Assembly; threw himself heartily into the elections; appealed to loyalty against sedition and to English against French; routed the Reformers; restored the Tory majority in the Assembly; and imagined that of responsible government the last had been heard. Reporting to the Colonial Secretary, he said:

“The great dispute which has so long been raging here between Constitutionalists and Republicans is (and these petitions prove it) at an end.”<sup>1</sup>

“I can assure your Lordship that democracy does not now exist in Upper Canada — it is completely annihilated.”<sup>2</sup>

“Nothing can be brighter than the moral and political state of the Canadas; all is sunshine here and *couleur de rose*. I have here no difficulties that are not surmounted, no sickness that is not cured, no sorrow that is not removed.”<sup>3</sup>

But Head was wrong. As Lord Durham said in his report, Head had

“succeeded in putting the issue [at the elections] in such a light . . . that a great portion of the people really imagined

<sup>1</sup> May 4, 1837.

<sup>2</sup> January 13, 1837.

<sup>3</sup> July, 1836.

that they were called upon to decide the question of separation by their votes."

And Head himself, in his vain-glorious way, had declared that the question put to the electors was:

"Do you vote for the House of Assembly or for Sir Francis Head? which amounts in plain terms to this: Are you for a republican government, or are you not?"<sup>1</sup>

The electors had voted against separation from the United Kingdom; but by a large majority they were in favor of responsible government, as very soon was made quite clear to everybody.

Beaten at the elections and himself ousted from the Assembly, Mackenzie turned his restless activities to preparations for a rebellion, which for a day or two in November, 1837, attained the importance of an *émeute* or riot. Little justification for such an outbreak can be alleged. Grievances undoubtedly existed, but the progress of Upper Canada toward self-government had been more rapid than in any other part of the world. The representative system was in full operation; freedom of assertion and debate was unchecked; the power of the Assembly was great and rapidly growing greater; the constitutional remedy for grievances had for twenty years (with the exception of 1829 and 1830) been in operation; while the Reformers had a majority in the Assembly there was no suggestion of appeal to force. No doubt the Reformers were unfairly beaten at the elections of 1836; but if in Canada we are to have a rebellion every time that a general election is carried by unfair methods, we shall, I am afraid, have little but elections and insurrections.

Nevertheless, the rebellion undoubtedly was a factor in the attainment of responsible government. It made ap-

<sup>1</sup> See his "Narrative," p. 123.

parent Governor Head's incompetence, led to his recall, and contributed to Lord Durham's governorship, which produced what has not unfitly been termed the charter of colonial liberties — Lord Durham's report. Read the following extracts from it:

“The powers for which the Assembly contended appear in both instances to be such as it was perfectly justified in demanding. It is difficult to conceive what could have been their theory of government who imagined that in any colony of England a body, invested with the name and character of a representative Assembly, could be deprived of any of those powers which, in the opinion of Englishmen, are inherent in a popular legislature. It was a vain delusion to imagine that by mere limitations in the Constitutional Act, or an exclusive system of government, a body, strong in the consciousness of wielding the public opinion of the majority, could regard certain portions of the provincial revenues as sacred from its control; could confine itself to the mere business of making laws; and look on as a passive and indifferent spectator while those laws were carried into effect or evaded, and the whole business of the country was conducted by men in whose intentions or capacity it had not the slightest confidence. Yet such was the limitation placed on the authority of the Assembly of Lower Canada; it might refuse or pass laws, vote or withhold supplies, but it could exercise no influence on the nomination of a single servant of the Crown. The Executive Council, the law officers, and whatever heads of departments are known to the administrative system of the province, were placed in power without any regard to the wishes of the people or their representatives; nor indeed are there wanting instances in which a mere hostility to the majority of the Assembly elevated the most incompetent persons to posts of honor and trust. However decidedly the Assembly might condemn the policy of the government, the persons who had advised that policy retained their offices and their power of giving bad advice. If a law was passed after repeated conflicts, it had to be carried into effect by those who had most strenuously opposed it. The wisdom of adopting the true principle of representative government and facilitating the management of public affairs by intrusting it to the persons who have the confidence of the representative body, has never been recognized in the govern-

ment of the North American colonies. All the officers of government were independent of the Assembly; and that body which had nothing to say to their appointment was left to get on as it best might with a set of public functionaries whose paramount feeling may not unfairly be said to have been one of hostility to itself (p. 54).

"It appears therefore that the opposition of the Assembly to the government was the unavoidable result of a system which stunted the popular branch of the legislature of the necessary privileges of a representative body, and produced thereby a long series of attempts on the part of that body to acquire control over the administration of the province" (p. 57).

The Canadas were united in 1841. At the first session of the first Parliament a resolution was unanimously adopted by the Assembly which declared that the government

"ought to be men possessed of the confidence of the representatives of the people."

The Governor refused compliance and wrote to the Colonial Secretary, saying :

"I have told the people plainly that, as I cannot get rid of my responsibility to the home government, I will place no responsibility on the Council; that they are a Council for the Governor to consult, but no more."<sup>1</sup>

But the contest was very nearly over. It flared up into real flame when Lord Metcalfe made appointments to office without the advice of his ministers; the ministers resigned (November 27, 1843); the home government supported the Governor; a period of unconstitutionality succeeded; a new Governor (Lord Elgin) came, saw, and surrendered — Lord Durham's son-in-law was Canada's first constitutional Governor. Since him some of them have raised some small points that need not detain us now. Canada has had responsible government since 1847.

The contest past, British statesmen almost at once com-

<sup>1</sup> Quoted from Sir Francis Hincks's "Reminiscences," pp. 41, 42.

## 110 RESPONSIBLE GOVERNMENT IN CANADA

menced to see how foolish they had been. Charged with conceding to rebellion that which had been denied to rational appeal, Mr. Gladstone admitted the whole Canadian contention when he declared that Canadian demands were conceded "not from terror but because, on seriously looking at the case, it was found that after all we had no possible interest in withholding them."<sup>1</sup>

One still sometimes hears it said that Canadian Reformers, by their agitations, retarded rather than accelerated the concession of responsible government, suggesting that the British government were waiting merely for quiescence and proper behavior before granting self-government. Nothing could be farther from the truth — nothing is more easily disproved. The British government gave way before Canadian determination, gave way not because they wished to, not because their leading statesmen could not argue and did not continue to argue that concession was impossible, but because no other course (save that of George III toward the American colonies) was open to them. That this may be made clear, let us read the despatch of Lord Glenelg (Colonial Secretary, 1835–1838) in reply to Joseph Howe's celebrated twelve resolutions embodying the New Brunswick demand for responsible government:

"To any such demand Her Majesty's government must oppose a respectful but at the same time a firm declaration that it is inconsistent with a due adherence to the essential distinctions between a metropolitan and a colonial government, and is therefore inadmissible."<sup>2</sup>

That was always the point: How can you be a colony and yet do as you like? You cannot; and therefore you must submit to be governed. The British Parliament's

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<sup>1</sup> Quoted in "The Letters and Journals of Lord Elgin," p. 32.

<sup>2</sup> Quoted by Mr. Longley, "Joseph Howe," p. 46.

resolution of April–May, 1837, has already been noted. That it proceeded upon the ground taken by Lord Glenelg is clear from the language of Lord John Russell (leader of the government in the House of Commons) in the debate of December 22, 1837. To him, responsible government in a colony meant political independence of that colony:

“But what the Assembly insist on is that the Legislative Council should be made elective. That is one of their demands; but they also make another of a most questionable character, which is, that the members of the Executive Council shall be placed on the same footing as the members of the administration in this country; and that they shall be removable when they no longer possess the confidence of the Assembly. These two demands form together a demand of *absolute independence*. Such a demand I, at least, understand it to be. It is not a demand for the removal of a grievance, but it is a demand to have a constitution which must be to all intents and purposes an independent constitution; because it is impossible that the ministers of the government in Canada should be removable at the pleasure of the Assembly, and yet be able to act at the same time upon orders which they receive from the Queen’s government at home. When, therefore, this extreme demand of theirs to become an independent state was refused, they, on their part, refused the supplies to the government of the Crown, and stopped the whole machinery of that government. What this country then proposed was, to take the means to set the machine in motion again. In this there was no act of oppression upon our part; it was not a measure of finance, but a measure of defence. It was a defensive position which we took up, in order that the provincial administration, with its machinery, might not be entirely stopped, but be carried on by some means or other. But that the government had conceded these demands I am by no means prepared to say, for I do not know that even by those means we should have secured tranquillity. Suppose the Legislative Council to have been elective, and a Bill to have been introduced into the Legislative Assembly for preventing British troops from entering Quebec or Montreal, and such Bill to have been agreed to by a Council so constituted, what remedy would remain in that case? The Governor, indeed, might have rejected it, but

then he would have been obliged to dismiss his ministers, and then the Assembly would have refused the supplies. The difference, therefore, between the two countries would still have existed, with this distinction, that in the case supposed, it would have rested on the question of the exclusion of British troops from Quebec and Montreal, instead of arising out of our refusal to make the Legislative Council elective and the Executive Council of the local government like our own Cabinet. The House of Assembly and the Council would have refused the supplies in that case, as they actually have done, and thus the machinery of government must necessarily have been stopped until the demands of the Assembly had been complied with."<sup>1</sup>

In his speech (June 3, 1839) upon the resolutions which preceded the Bill to unite the Canadas, Lord Russell repeated the same arguments and announced the same determination:

"It is quite impossible to allow it to be laid down . . . that such colony shall not be subject to the general superintending authority of the Crown of these realms."<sup>2</sup>

The Tory Legislative Council of Upper Canada, agreeing with these sentiments, declared

"that the adoption of the plan proposed by the Earl of Durham in which this [responsible government] is the prominent feature, must lead to the overthrow of the great colonial Empire of England. . . . Under such a system colonial dependence would practically be at an end."

Joseph Howe made strong reply to Lord Russell's speech of the 3d of June in a series of

"Letters to the Right Honorable Lord Russell on the right of British Americans to be governed by the principles of the British Constitution."<sup>3</sup>

<sup>1</sup> "Mirror of Parliament," p. 1064.

<sup>2</sup> *Ib.* p. 2635. His instructions to the next Governor (Mr. Poulett Thomson) directed him "to refuse any explanation which may be construed to imply an acquiescence in the petitions and addresses upon this subject."

<sup>3</sup> See Parliamentary Pamphlets, Canadian, Vol. 115.

He denied the validity of Lord Russell's deductions:

"But, it is said, a colony being part of a great empire, must be governed by different principles from the metropolitan state; that unless it be handed over to the minority, it cannot be governed at all; that the majority, when they have things their own way, will be discontented and disloyal; that the very fact of their having nothing to complain of, will make them desire to break the political compact and disturb the peace of the empire. Let us fancy that this reasoning were applied to Glasgow, or Aberdeen, or any other town in Britain, which you allow to govern itself."

With the light of nearly half a century's experience what shall we say of these prognostications? First this: that, as usually happens, large changes in political principles are not followed by all that they may logically be thought to imply. Secondary causes — use and wont, respect for tradition, inappreciation of the full import of the change — secondary causes, whose full static force is always incalculable and surprising, intervene and postpone, sometimes for generations, the accomplishment of inevitable effects.

Now it seems to us to be quite possible that colonies shall be completely self-governing, and yet that they "shall not be subject to the general superintending authority of the Crown of these realms." It seems so; but is it the fact? or are we merely deceiving ourselves with current language? So long as we are superintended from London, there is the relationship of metropolitan and colony. But when that superintendence ceases, subordination ceases, and colonial status is at an end. In other words, a "self-governing colony" is an impossibility, for complete self-government is predicable of an independent state only. Of course if by a "self-governing" community you mean one that has some, even some very large, powers of self-government, but not them all, then no



doubt the community may be a colony — but it is not “self-governing.” It is only partially so.

If Lord Russell meant, not that concession of responsible government was equivalent to a grant of independence (and probably he did not), but that responsible government would eventually involve freedom from “the general superintending authority of these realms,” and that such freedom might well be called independence, he was right. Our political history has made that perfectly clear.

What, then, of the future? What is to be the sequel of the story of responsible government? What use shall we make of our freedom? We have still an indefinite association with the British Empire. Strong efforts have been made to define and to fix the relationship, but all proposals have failed and none now is under consideration. Official recognition of colonial freedom has thus far been the chief product of colonial conferences, called for the purpose of “cementing the Empire” and obtaining colonial subscriptions to the British navy.

Colonial association with the British Empire may continue as it is (a sort of family association); or it may be prolonged by alliances and treaties, commercial and other — we cannot surely say; but this at all events we know, that all arrangements will be made, not between metropolitan and colony, not between dominant Britain and subservient Canada, but between nations equally free to do as they will. This much responsible government has brought us. All honor to those who contributed to its attainment.

Whatever happens, Canada will, no doubt, some day rise to the dignity, and assume the responsibility of national manhood, and will take its place among the peoples of the earth, at once in status and not long afterward in power, the equal of any nation that anywhere flies a flag.

## COLONIAL DISLOYALTY

SCIENTISTS tell us that wavelets, raised by a falling pebble, diminish as they expand, but never quite cease to influence in some minutest fashion the sum of earth's physical phenomena. It is the same in the realm of thought. A superstition may be discredited, but for centuries it remains visibly, palpably, and often admittedly influencing, swaying, and impelling many of those who have learned to flout it, and imparting to hosts of others a bias which they believe to be the product of pure reason.

Among such superstitions few have had influence equal to that which endowed Kings with the sanctity of divine appointment. Acquiescence in the general idea of God's governance over everything, even to the fall of a sparrow, did not exclude belief that, in some very special and peculiar way, a King was a King because the Almighty had so decreed; that "his people" were therefore bound to honor and obey him; that, in short, his authority was that of God's representative.

Few persons would now say that King Edward (whose right to the throne is based upon an Act of Parliament) can plead any higher "divine right" than can President Roosevelt. All history tells us that opinion was far otherwise in days gone by. "God's anointed" was in general belief "one particularly designed and chosen by God to be the king."<sup>1</sup> For instance, Samuel, in approaching Saul, said to him, "The Lord sent me to anoint thee to be king over his people;"<sup>2</sup>

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<sup>1</sup> Cruden's "Concordance."

<sup>2</sup> 1 Samuel xv. 1.

and the writer of Acts says, "They desired a king, and God gave unto them Saul."<sup>1</sup> To rulers thus commissioned, people ought of course to be reverential and submissive, and we have accordingly the injunctions: "Touch not mine anointed;"<sup>2</sup> "Submit yourselves to every ordinance of man for the Lord's sake, whether it be of the king as supreme or unto governors;"<sup>3</sup> "Fear God, honor the king."<sup>4</sup>

This idea attained its apogee when the Popes asserted (and had acknowledged) their right as God's vicegerents to appoint (as well as to anoint) kings, and to dismiss them at will. The Syllabus (1864) refers to

"that salutary power which the Catholic Church . . . ought to exercise until the end of time, no less over individuals than nations, over peoples than their sovereigns."

And it stigmatizes as erroneous the assertion that

"kings and princes are not only exempt from the jurisdiction of the church, but they are even superior to the church in deciding questions of jurisdiction."

The Westminster Confession of Faith (still the standard of most of the Presbyterian bodies) declares that

"They who, upon pretence of Christian liberty, shall oppose any lawful power, or the lawful exercise of it, whether it be civil or ecclesiastical, resist the ordinance of God."

Finally, in the latest British coronation ceremony, among other anachronisms and shams, the following words were addressed to the King by the Archbishop of Canterbury:

"Stand firm and hold fast from henceforth the seat and state of royal and imperial dignity which is this day delivered unto you in the name and by the authority of Almighty God, and by the hands of us the bishops and servants of God."<sup>5</sup>

<sup>1</sup> Acts xiii. 21.    <sup>2</sup> Psalms cv. 15.    <sup>3</sup> 1 Peter ii. 13, 14.    <sup>4</sup> *Ib.* 17.

<sup>5</sup> As part of his coronation oath the King swore that he would "*govern* the people of the United Kingdom of Great Britain and Ireland and the Dominions thereunto belonging."

It is quite unnecessary at the present day to argue against all this. British Kings now hold their office during good behavior. The Stuarts learned that,<sup>1</sup> and the lesson was sufficient for all time. But what splendid courage was necessary in the old days for attack upon the seemingly axiomatic principle of the divine right of Kings! Was it not founded upon the Bible and upheld by all religious authority? Had not its truth been demonstrated in all history by indisputable signs and uncontrovertible evidences? Scrofulous diseases, for example, were they not cured by the King's touch? Who doubted that the Stuarts could remove the "King's Evil" from the skins of their people? And when the second James fled to France, did not his adherents prove the justice of their cause and the usurpation of William, by the continuation of the King's curative power? All this, too, we cease to argue about, our later King's authority, patently enough, being founded upon rebellion *against* a King, and upon parliamentary resettlement of the right of succession.

Russia and Japan still think of their Sovereigns as in some very special sense associated with the Almighty; and the German Kaiser probably believes his own assertion of his divine agency<sup>2</sup> and gets very many people to accept it, more or less unreservedly. But from Moses and his waters of Horeb down to the present time, the physical evidence of the

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<sup>1</sup>James I said to Lord Coke: "This is a thing regal and proper to keep every court within its own bounds. As for the absolute power of the Crown, that is no subject for the tongue of the lawyer, nor is it lawful to be disputed. It is atheism and blasphemy to dispute what God can do—good Christians content themselves with His will revealed in His Word: so it is presumption and high contempt in a subject to dispute what a King can do, or say that a King cannot do this or that; but rest in that which is the King's will as revealed by law" ("The Cambridge Modern History," Vol. III, pp. 565, 566).

<sup>2</sup>"I regard my position as appointed for me by God, and in this consciousness I daily labor."

special inspiration and support of Kings or other Governors by God has been disappearing before advancing rationality. For Canadians, at all events, belief in it is as unusual as dependence upon divine protection against the bacilli of smallpox.

Nevertheless much of "the divinity that doth hedge a King" remains in the heart although evicted from the brain. Good Queen Victoria, with her womanly virtues, drove down into the life of the people tenderest roots which may yet suffice to save the oak of monarchy when some foolish branch of it is bending to the storm. But although monarchy remains, all notion of divine or other *right* to govern or to rule is, in the United Kingdom and Canada, forever gone. Centuries of heroic contest against such notion has finally terminated it.

It was a long and arduous struggle. Epics, Homeric and all other, pale into absolute insignificance in the presence of these centuries-spanning conflicts of all nations between privilege and people. What a theme for poetic power, this contest between patrician and plebeian, between lord and vassal, between earl and churl; commencing with contempts, sneers, and blows, and submission, docility, and obedience; and resulting in equal voice in the election of law-makers, in the acknowledgment of the dignity of honest labor, in the anxious study of social problems, even in deference (increasing as elections approach) to the wants and claims — even the prejudices and stupidities of the great proletariat. "A man's a man" nowadays, or very nearly so.<sup>1</sup>

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<sup>1</sup> "The story of English history is the record of the struggle of the House of Commons first for freedom, then for power. The long contest of the elective chamber with the aristocracy and with the Crown is that which lends dignity to the annals of our race; and vies in interest with the expansion of the Anglo-Saxon peoples in the regions outside Europe" (Sidney Low, "The Governance of England," p. 55).

The American colonists were born into subjection, and the earlier part of their history ran parallel with that of their compatriots whom they had left behind. Here as there (according to predilection) were Cromwell and William acclaimed or denounced — was the restoration of Charles hailed or decried. In America (as in Britain) there were many who upheld the personal right of the King to govern his people everywhere, and to send rules for their governance across the ocean. Why should such prerogative be doubted? The King had assumed to own the continent, to grant it to whomsoever he pleased, and to appoint Governors and Councils to carry out his desires. The King's actual power and supremacy were apparent to every one, and the advantages to be gained from their acknowledgment and cordial support strongly enforced the current opinion in favor of the rights of royalty. Add to this a feeling of allegiance to the person of the Sovereign, and a surviving notion of his semi-sanctity, and we have accounted for the originally widespread deference paid to kingly authority in America and for its slow disappearance.

Much more strange and illogical, however, was the transference of such feelings and subjection from King to Downing Street. As the British Parliament despoiled the King of his ruling power at home, it claimed to succeed to his authority over the colonies. Very gradually it usurped his whole authority. Almost insensibly the prerogative of the King became the prerogative of the Colonial Secretary. And so well was the change concealed under continuation of old-time phraseology, so unobtrusively was it accomplished, that not until American revolutionary times was attention clearly directed to the fact that whereas in earlier days the King claimed to govern his subjects both in Britain and in the colonies, now (the King having been displaced) the assertion

was that the subjects in London had a right to govern the subjects in America.

Here was evidently a new and an essentially different claim.<sup>1</sup> Upon both sides of the ocean the people had been in struggle with the King; and legislatures, here and there, had been whittling at his prerogatives, until at length one turned upon the other and said, "For the future we shall govern you." That was a curious assertion; but many colonists willingly bowed anew, and went to their death in support of their subjection.

In Canada there have always been thousands (and many of them among the most cultured of our people) who have made this principle of subjection a cardinal characteristic of their lives; who have covered with their obloquy and contempt those desirous of British freedom; and who have bewailed and deplored, as a step toward the abyss, every advance in the direction of self-government. "Traitors" and "rebels," in the eyes of such persons, have been all those who in Canada have done that which their forefathers did in Britain; what their brothers everywhere are doing now; and what will continue to be done by the traitors and rebels in America and elsewhere (Heaven help them) until autocracies and bureaucracies and all false assumptions are well tumbled into the ditch.

There seem to be two classes of persons in the world: those who want to govern, and those who are content to be gov-

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<sup>1</sup>That it was an illegal claim may be argued from the decision in the Lord Bishop of Natal, 3 Moo. P.C., N.S., 115, in which Lord Chelmsford said: "After a colony has received legislative institutions, the Crown (subject to the special provisions of any Act of Parliament) stands in the same relation to that colony or settlement as it does to the United Kingdom" (p. 148). If that be true, then the King should act, in Canadian matters, upon the advice of his Canadian ministers and not upon that of his British advisers.

erned. This second class, in earlier and ruder times, constituted the vast majority; and the Caesar-and-Pompey and all other dynastic wars were struggles between two persons or sets of persons, each wanting to govern a vast number of other people, who, on their part, had little desire to govern themselves. Slowly, however, this desire to rule extended and descended, and took possession of the people; and the question once fairly and simultaneously asked by some millions of voices, "Who made thee a King to rule over us?" was well on its way to being answered.

But only on its way; for use and wont, abhorrence of change, dread of the new (if it be only the Torrens system of land registration), and arguments of some seeming validity, conspired with the irruption of lurid spectres of the imagination — reign of the rogue, rule of the *sans-culottes*, domination of the spoiler, eternal French guillotines, and so on — to retard that answer and make its formulation slow, tedious, and difficult.

And so every foot of the way was fought — not frequently with pike or rifle, but usually by the persistent influence of event-logic upon the growth of opinion. In actual combat the Governors had their moments of successes; but to the governed, defeat was usually itself an inspiration, and the spread of conviction was accelerated in its pace by the force of the blow — the fable of Antæus has many applications.

These thoughts have been suggested by a perusal of the recently published biography of Sir John Beverley Robinson. A high and pure-minded man, an able statesman, a profound jurist, he was of those who were content to be governed, who believed that those who differed with him were rebels and traitors. Possibly had he not been admitted to the ranks of those who were allowed to influence governmental action, he might have been less acquiescent, but I do not think so.



He was of Tory, aristocratic mould, and he regarded democracy as republicanism and degradation.

The two classes fought it out in those days prior to the 1840-union of the Canadas. There were, on the one side, the Governor (a governing, managing Governor insisting upon having his own way), with his appointed Legislative Council, and Executive Council; and on the other side, there was a popularly elected Legislative Assembly. The Assembly was practically powerless — save for its explosive faculty. It might remonstrate, no doubt, and fulminate, and appoint Committees of Enquiry, and pass disloyal resolutions (disloyal to the Governor); but it could enact no law without the sanction of the Governor and his Legislative Council; and it had no control over the Executive. In short, its functions were largely limited to quarrelling with its opponents, and its activities therefore usually took the form of altercations.

There was of course — or rather is (for we are not yet quite to the finish of it) — only one possible end to such dispute; but let us look in, a little, upon the particular phase of it with which Sir John was so closely associated; and let us learn from his experience that, dread it or welcome it as we may, Canadians in the long run will surely attain to every particular of nationhood — will make their own arrangements with reference to their own affairs, and with reference also to their relations with the rest of the world.

Sir John was of the best of United Empire Loyalist stock. In the Revolutionary War his family had fought and suffered for King George; and in Upper Canada, his great talents having placed him in a leading position, he gladly spent his strength in the support of prerogative as against the people. The possibility of responsible government in Canada he contemplated with dismay, and most resolutely he fought its every advancing step.

That Sir John's view was sentimental rather than rational, appears now to be very evident, for were he here to-day, there can be very little doubt that he would regard the overthrow of his former principles as the very salvation of imperial connection. This assertion may seem to be impossible of proof, but his change of opinion as to the American Revolution amply justifies it. Sixty years had not elapsed since the Declaration of Independence (which to colonials of Sir John's type in 1776 was an act too base and shameful for description) before Sir John, looking back upon it, declared it not only quite natural and inevitable, but a particularly fortunate occurrence. In his little volume, "Canada and the Canadian Bill," Sir John said:

"But no one who desires that the British power should continue for ages to maintain its ground in North America *can now think these events unfortunate.*

"Many who bore arms in the contest alluded to are still living, and yet, in the interval that has elapsed, the American States have acquired a population twice as great as that of England was at the time of the struggle.

"It is only necessary to consider this fact, to look at the almost boundless territory which these states comprise, to contemplate their increasing trade, the great line of sea-coast, the variety of climate and productions, and the abundance of all the materials for forming a powerful nation — it is only necessary to consider these things for a moment, and we must arrive at the conviction that the *separation of such colonies from the parent state was inevitable*" (p. 14).

Continuation of subjection of the people here to the people there, was Sir John's chief requisite of right political action. The American colonies were too big to remain permanently subordinate, therefore their separation was a blessing. If they had been smaller, their secession would have continued to be sacrilegious and despicable. It was fortunate (upon the same line of reasoning), thought Sir John, that, at the close

of the Revolutionary War, Britain handed over an immense area of magnificent territory south of the lakes

"which is now becoming the abode of millions . . . because it could hardly have been maintained for a long period in dependence on the British Crown."<sup>1</sup>

He said:

"Every one knows that at the conclusion of the American Revolutionary War in 1783, by some strange mismanagement of the British negotiators, there was ceded to the late American colonies not merely their independence (which was all they professed to have been contending for), but with it an immense region to which they had no claim, and which was greater in extent, I believe, than all the thirteen colonies together. I mean that western and northwestern territory which is now becoming the abode of millions.

"This, too, has been reckoned a misfortune, as it was certainly a fault in those who made the extraordinary concession; but a little consideration, I think, will convince us that, after all, it is not to be regretted. A country of such boundless extent, of such variety of climate and production, to a great part of which the Mississippi and not the St. Lawrence is the natural outlet, would hardly have been maintained for a long period in dependence on the British Crown. Being divided from the United States by no natural boundary, the amalgamation of a people speaking the same language would long before this time have proceeded to such an extent as to decide almost silently the question of country. . . .

"We must be thankful then for Britain's blunder in handing over to the rebellious Americans that immense territory extending as far south as the Ohio, because it could hardly have been maintained for a long period in dependence on the British Crown" (p. 16).

Nova Scotia and New Brunswick are fortunately situated, Sir John thought, because

"They never can in any stage of their advancement, entertain the idea of associating with Canada in order to form an inde-

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<sup>1</sup> He referred to the voluntary cession of what is now comprised in the states of Ohio, Indiana, Illinois, Michigan, and Wisconsin.

*pendent nation.* Their geographical position forbids it. Protected and aided by Great Britain, their gallant militia, the soldiers stationed there, and whatever resources their zeal and courage can supply, can by her fleets be transported to aid in the defence of Canada against a common enemy; but their effective union with Canada, in order to defy Great Britain, is an event physically impossible, as it is, morally speaking, improbable" (pp. 17, 18).

And if Great Britain wants a country to govern and exploit, "Canada is precisely that country":

"If, besides her possessions upon the skirts of America, valuable for their harbors, their fisheries, and their coal, it is desirable for Great Britain to have a territory on that continent of such extent and fertility that she may reckon upon drawing from it, for ages to come, the timber, the hemp, the grain that she may have to seek from abroad; a country in which millions of her subjects, *flourishing happily under her laus, may furnish employment to her manufacturers, her ship-owners, and her seamen*; in which the superabundant population of these kingdoms may find a desirable home, and in which British capital may be usefully and profitably employed; then, no man, who will examine and consider, can hesitate for a moment to declare that *Canada is precisely that country*" (p. 19).

This old idea of colonies being useful as furnishers of raw material and consumers of metropolitan manufactures, is, of course, long since exploded. No one in Canada now thinks that way, and Sir John would not do so if he were here. But he would range himself, nevertheless, among those who still deplore, as a loosening of imperial ties, every new accession to Canada's independence.

Clearly enough, Canadians, prior to 1837, were entitled to responsible government. Lord Durham so reported and the British government followed his advice, but Sir John thought otherwise, and the result of its denial was (as so frequently) that rebellion preceded concession of rights. To withstand such concession, Sir John wrote the book above referred to.

It was addressed to Lord John Russell, who was then Secretary of State for the Colonies.<sup>1</sup> In it Sir John said:

“With respect to the principle recommended by Lord Durham under the name of ‘*responsible government*’ it is not surprising that, notwithstanding the distinct rejection of the innovation by Her Majesty’s government, it is still made the ground of *so much hurtful agitation* in Upper Canada” (p. 67).

“I greatly apprehend that whatever advantages might be reasonably expected from a legislative union of the four North American colonies, if that were found practicable and considering the character of the population of Nova Scotia and New Brunswick, the effect of uniting the two provinces of Canada only, will be *to create a representative Assembly such as the government will be unable to withstand*, except by measures which it is painful to anticipate — that it may, at the very outset, and will certainly, at no distant period, give existence to a representative body in which the majority will not merely be opposed in the common spirit of party to any colonial Governor who shall not be unfaithful to his trust, but a majority which would be held together by a common desire to separate the colony from the Crown — a party, consequently, whom it will be impossible to conciliate by any concession within the bounds of right. . . .

“The opposition of the Assembly, while it represented Lower Canada alone, appeared to the government in England to be so formidable, that the influence of the motives I have just enumerated was fast weakening the royal authority, and depriving the constitution of that power of protection which is necessary for the public good” (p. 117).

“How much greater then will be the danger, when every threat from the Assembly must be treated as proceeding from the representatives of the whole of Canada; and when every perplexing obstacle thrown in the way of the executive government will create in the two provinces the same embarrassment and confusion which under the former system could only extend to one” (p. 118).

“If the French-Canadians should be violent and clamorous, they [modifications] would be conceded in the hope of appeasing them; if they should be for a time plausible and submissive, they would be conceded from another motive; and sooner or

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<sup>1</sup> It bears date December 30, 1839.

later the people of Upper Canada would, I apprehend, be left to take their chance of the union without their securities" (p. 119).

"Surely it was no error in judgment that they [the Legislative Council] have always, constantly and firmly but temperately, endeavored to withstand, by constitutional means, those destructive schemes which the mother country has at last found it necessary to repress by her armies, and yet it will be found that in several public discussions they have either surrendered silently and without vindication to whatever censures were cast upon them, or the censure has received countenance where the Council could not but feel that they had a right to look for support. And now, at the termination of the contest, it is proposed to change their constitution, apparently for the purpose of moulding it more in accordance with that branch of the legislature from which all the difficulties have sprung" (p. 120).

"Frequently, and for years together, the opposition in Upper Canada has prevailed as decidedly over the government as it has done in Lower Canada, though not by a majority quite so disproportionate; and if the two provinces shall be united upon any principle of representation which Parliament could think of proposing, it would not be long, I fear, before the British government would find that their difficulties had, at least, not been diminished by the measure" (p. 123).

There it is: the "royal authority" must be preserved. Opposition to the colonial Governor and all "perplexing obstacles" must be averted. The Governor must do as he pleases. The people must be humble, submissive, and obedient. Concessions, either to the "insolent and clamorous," or to the "plausible and submissive," must be refused. There shall be no "representative Assembly" that the government shall be unable to withstand.

Sir F. B. Head was the Governor of Upper Canada in these troublous times,—the Governor who, Sir John thought, ought to have been free from "perplexing obstacles." Let us see what manner of man he was. Concerning the intelligence of Canadians he tells us in "The Emigrant" that

"On the subject of government they (the colonists) are *infinitely more enlightened* than he (the *Englishman*) is; not instinctively or intuitively, but simply because, from the days of their childhood, they have enjoyed advantages of observing both sides of a most important question of which *Englishmen can only see one*" (p. 45).

That would seem to be a fairly good reason why laws for Canada should be made by a legislature elected by Canadians rather than by one elected by Englishmen. But Sir Francis did not think so. Upon the contrary, in an election manifesto he said:

"Never will I allow the power and patronage of this thinly-peopled province to be transferred from His Majesty's representative to the dominion of 'a Provincial Ministry,' an irresponsible and self-constituted Cabinet" (p. 51).

His view of his duty was

"above all, to resist the smallest attempt to introduce that odious principle of 'responsible government' which a few republicans in the province had been desirous to force upon them" (p. 157).

His notion of colonies was that

"the interests of our colonies should be of subsidiary importance to the great paramount interests of the Empire" (pp. 400, 401).

"Whatever, therefore, may be the value of our colonies—however convenient they may be to us as outhouses for our superabundant population, or as nurseries for our seamen," etc. (p. 411).

And could he have had his way, he would have issued a proclamation couched in such language as this:

"Moreover, Her Majesty wishes it to be clearly understood throughout her North American colonies, that under no pretence however trifling, or for no reward however large, will she consent to the smallest attempt to conciliate democracy.

"Lastly, Her Majesty has directed me to inform you that the

ill-advised experiment of 'responsible government' is hereby forever abolished.

"Her Majesty's subjects are constitutionally represented in their Commons' House of Assembly. They are also members of the Upper Branch of their legislatures. Her Majesty's representative will ever be ready to listen to any facts or opinions which his Council may suggest to him; but Her Majesty hereby declares that her representative *is responsible to HER — not to Her Majesty's colonial people* — for the course he may pursue; and that unless he were so, Her Majesty would virtually be deprived of all power to maintain the paramount interests of her Empire, or to afford to her colonial subjects that protection which it is her happiness to bestow" (pp. 414, 415).

Sir Francis had the mortification not only to see himself overruled by the British Parliament, but to observe that many of those whom he had treated as republicans and rebels were placed in public positions of trust and usefulness, while he himself was recalled and his recommendations ignored. He says that

"while Mr. Bidwell, in consequence of having abjured his allegiance to the British Crown, was receiving in the United States compliments and congratulations on his appointment to the American Bar, it appeared from the *London Gazette* that the Queen's government had advised Her Majesty to relieve his opponent [Sir Francis himself] from the administration of the government of Upper Canada; in short,

The man recovered from the bite,  
The dog it was that died" (pp. 202, 203).

"After the melancholy fact of Her Majesty's Conservative government having offered, in the name of the Queen, one of the most honorable and important appointments in the gift of the Crown [Commissioner of Crown Lands and Executive Councillor] to a person [Girouard] for whose apprehension as a traitor Lord John Russell's much abused 'Whig-Radical government' had honestly offered and had paid five hundred pounds sterling, it would be tedious as well as needless to detail other instances of this unnatural policy. Suffice it therefore to say, that in the Lower Province as well as in the Upper, every rebel, in



proportion to his guilt, was promoted by the Conservative government to offices of emolument, trust, or honor" (p. 352).

"Besides these appointments, the Queen was advised by her Conservative minister to pardon and bring back to Canada almost every absconded traitor who, like Monsieur Papineau, had distinguished himself by insulting Her Majesty's representative, and who by mischievous representations had encouraged his deluded followers to rebel" (pp. 352, 353).

"*'Who are the rebels now?'* said a convicted traitor, sneering over his shoulder, as he rode by a group of United Loyalists. *'I guess it's you who are now opposed to your Queen's government.'* But, alas, it was the Queen's Conservative Prime Minister in England who was opposed to *them*" (p. 357).

Admiration for Lord Durham is greatly enhanced by comparing him with the Governors (almost all of them) who preceded him in the American as well as the Canadian colonies — Governors whose opinions Sir Francis cited as condemnatory of Lord Durham's policy:

"So long as Monsieur Papineau and Mr. Mackenzie, masking or rather casting a transparent veil over their real designs, had asked only for 'reform,' there might have been something like an excuse for Old England stoutly disbelieving the various administrators of the government who for the last twenty-five years, in different voices, had one after another been opposing the poisonous concessions to democracy which the home government, under the name of 'domestic medicine,' had been pouring upon the free, the happy, and the loyal inhabitants of a new world" (p. 291).

"Sir Robert Peel declared in broad daylight that he should very reluctantly vote for a measure which he perfectly well knew had been strenuously opposed:

"1st. For twenty-five years by the successive Executive Councils of Upper Canada;

"2d. For upwards of forty years by the successive administrators of the government of that province;

"3d. By the two Houses of Legislature of Upper Canada who in 1837, fearing that Lord Gosford and the Royal Commissioners might possibly recommend the said union, joined in an address to the King, declaring that such a measure would,

in their opinion, '*be destructive of their connection with the parent State*' ;

"4th. By Sir George Arthur, the existing Lieutenant-Governor, who in his published despatch to Her Majesty's Secretary of State, No. 91, dated April 17, 1839, described :

"The Earl of Durham's scheme for the future government of Canada as essentially the same as that which was advocated by Mr. Bidwell, Dr. Rolph, and Mr. Mackenzie,' and in his published despatches, dated July 2, and August 21, 1839, added :

"There is a considerable section of persons who are disloyal to the core; reform is on their lips, but separation is in their hearts. These people, having for the last two or three years made *responsible government* their watchword, are now extravagantly elated because the Earl of Durham has recommended that measure. . . .

"It [responsible government] was Mackenzie's scheme for getting rid of what Mr. Hume called "the baneful domination of the mother country; and never was any better devised to bring about such an end speedily."'"

Lord Durham recommended the grant of responsible government, and the union of the Canadas as necessary to their proper government and their continued connection with the United Kingdom. Sir Francis, on the other hand, declared that the Duke of Wellington joined in

"enacting a law which he, as well as every man acquainted with the subject, perfectly well knew would paralyze the Queen's Secretary of State for the Colonies, and eventually separate Her Majesty's North American colonies from the British Crown" (pp. 302, 303).

"The doom of Her Majesty's splendid North American colonies was now evidently pronounced; the Conservatives, in melancholy silence, sat behind their leader, watching with astonishment his mysterious alliance with principles which they could not comprehend; and thus, almost in funereal silence, the fatal Bill proceeded" (p. 314).

"I believe every man acquainted with the inhabitants of these provinces will concur with me in saying that while this second or degrading course of policy is quite certain to effect

their separation, the opposite course would as surely prevent it" (p. 417).

Before the Bill was passed Sir Francis informed Parliament that it was one

"which must inevitably destroy the Established Church in Upper Canada, subvert British institutions in both provinces, and effect the separation from the Empire of the whole of our North American colonies" (p. 316).

And after it had gone into operation he cited Lord Metcalfe's experience and judgment as confirmatory of his opinion:

"When Sir Charles Metcalfe arrived in Canada, he began by carrying out Sir Robert Peel's unfortunate doctrines with the utmost fidelity; and he accordingly not only submitted to 'responsible government,' but in a written document he publicly declared it to be 'the only way of governing the Canadas.'

"He persisted in this course for about a year, until of his own accord he discovered his error. The whole of the remainder of his administration was employed in a vigorous attempt to undo what on his arrival he had been induced to do. He openly declared, in terms of unusual force, that nothing should induce him to take back to his Council Mr. Robert Baldwin, Mons. Lafontaine, and others, whom the Conservative government had so improperly raised to that post; and he left the province, openly declaring: 'THAT THE UNION OF THE CANADAS WAS A FATAL MEASURE, AND THAT RESPONSIBLE GOVERNMENT WAS AN IMPRACTICABLE THEORY'" (pp. 421, 422).

Of course Lord Metcalfe was wrong. He, too, had been trying to govern Canada.<sup>1</sup> It was not until Lord Elgin's<sup>2</sup> time that responsible government went into operation, and since then we have heard little objection to it.

What a lesson have we here touching that colonial "disloyalty" which has always been the chief characteristic of

<sup>1</sup> Sir John Bourinot, "The Story of Canada," p. 362.

<sup>2</sup> The son-in-law of Lord Durham.

colonial political growth. Not its existence, but its wonderful moderation, is that which surprises us. Why for centuries did the people of England tolerate the pretensions of Kings, and Kings' favorites, and Kings' wives, and Kings' mistresses? And why, with here and there an exasperated remonstrance, did they submit to the domination they might have ended? Why, also, for so long, did American and Canadian colonials, "infinitely more enlightened than the Englishman . . . on the subject of government,"<sup>1</sup> nevertheless accept government at the hands of the Colonial Secretary — government devised, not principally for the benefit of the colonies, but for the benefit of the metropolitan? Force, was one answer to all these questions; another, the participation by many in benefits derivable from the existing system; another, the natural and normal submissiveness of persons fully occupied in their private affairs; another, their accustomed deference to those in actual authority; another, religious scruples; another, use and wont; and another, lack of enlightenment.

Colonial "disloyalty" has always at bottom meant "desire for self-government" — disloyalty to the Governors, not desire for separation from the metropolitan or annexation to another nation, and not disloyalty to the Sovereign. No doubt it has often been forced, by continuous oppression, into impatience and explosion, and the adoption of hostility to the British government, but that was because the governed were of the same race as their Governors, and had within them the same ambitions and the same determination.

More confidently than at any other period of Canadian history was it said, in 1837, that the "Reformers" were allied with annexationists and had annexation in view.<sup>2</sup> More clearly than at any other period did the Heads and the Robinsons see that "reform" on their lips was really "rebellion"

<sup>1</sup> *Ante*, p. 128.

<sup>2</sup> See "Life of Sir J. B. Robinson," p. 205.

in their hearts; that "responsible government" ("so much hurtful agitation") was something that should be "forever abolished" — was a "poisonous" scheme for getting rid of the domination of the mother country.

And yet the Heads and the Robinsons were wrong. Reform was *really* what was wanted, and the idea of annexation (so far as it existed) represented but the impatience and the despair of men whose rights were too long withheld. Reform attained, colonial "disloyalty" disappeared.

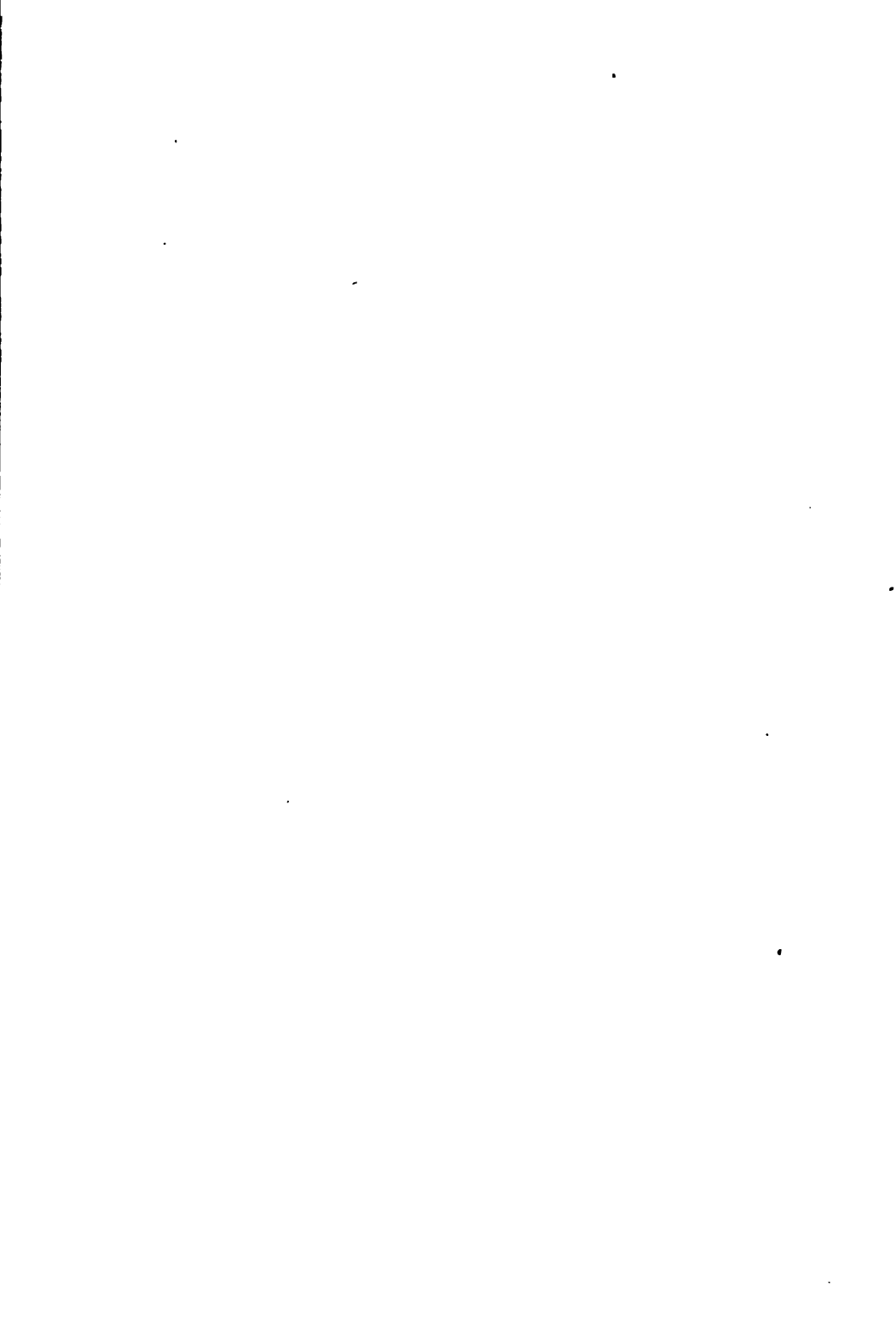
But Canada's legislative freedom is not yet completely attained. Responsible government is not synonymous with absolute parliamentary supremacy. Pitt was the first "people's minister" in England, and responsible government in Britain may be dated from his time; but we have to pass on to the reign of Victoria to reach the period of "constitutional government" (an inappropriate phrase) or government by the people. And as the elimination of the King in British legislation was an outcome, rather than an immediate effect, of the establishment of responsible government in Britain, so also the complete extrusion of Downing Street from Canadian politics will hereafter be dated not from 1840, nor from 1846, nor from 1867, nor from 1907 (the date of this writing), but from a period still to be ascertained. If, however, the King's prerogatives had to disappear, how much more must the Downing Street assumption of them vanish.

Sir John Beverley Robinson would have had us forever colonials. See how kind Providence had arranged everything for us, overruling even British mistakes to that happy end! How fortunate the success of the American Revolution! How lucky it was that Britain gave away to "rebellious America" immense areas that are "now becoming the abode of millions"! Canada would have been too large, and compact, and unmanageable! What a blessing that Nova Scotia

and New Brunswick are cut off, geographically, from Canada — their “power to defy Great Britain is an event physically impossible”! And what a glorious destiny for Canada, that for “ages to come” she may be counted upon as a place from which Britain may draw “timber, hemp, grain”; as a place which will “furnish employment to her manufacturers, her ship-owners, and her seamen”; as a pretty farming locality “flourishing happily under her laws”!

The Canadian rebels of 1837 had very different notions. They were disloyal to the Governor, but not to Canada. Their present-day critics object only to their methods. Their claim of responsible government was right. But for them, its concession would have been longer delayed — how long we do not know. Possibly until a later rebellion — this time a revolution. The condemners of Mackenzie and Papineau must remember the effect of protecting, with a wasting dam, a village from a mountain flood.

We are not going to try to balance the account. Much can, and has been, said on both sides. But all may agree that Lord Durham’s report of 1839 was the product of the rebellion of 1837; that responsible government in 1846 was the result of Lord Durham’s report; and that Canada’s subsequent advancement towards political independence has been the consequence and effect of responsible government.



## MR. CHAMBERLAIN'S PROPOSALS AND CANADA<sup>1</sup>

CANADA'S attitude towards Mr. Chamberlain's proposals is of some consequence. It may be stated in this way:

1. Mr. Chamberlain advocates the establishment of a protective tariff. To this Canada says nothing.

2. Mr. Chamberlain proposes preferential tariffs within the Empire. Canada is almost unanimously in favor of such tariffs.

3. Mr. Chamberlain desires commercial union of the Empire. Canada does not.

4. Mr. Chamberlain urges political union of the Empire. Canada dissents.

### PROTECTION

Protection carried the Canadian elections in 1879. Those who then voted "Nay" are now Protectionists (if they yet live), and their discarded opinions have been adopted by nobody. Canadians are inclined to think that protection would be beneficial to the United Kingdom, but they recognize that the conditions differ, and they leave the debate to those who are better qualified than they for its discussion.

Protection in the United Kingdom may be detrimental or advantageous to Canada. If unaccompanied by exemption of Canadian products, Canada must suffer by its enforcement, for her exports to the United Kingdom include much that might be excluded by tariff walls. And if the walls are erected, Canada will have no right to complain.

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<sup>1</sup> An article published in *The Monthly Review*, October, 1905.



## PREFERENCES

Canada favors preferential tariffs within the Empire; but at the same time she intends to maintain her protective tariff as against everybody. In other words, Canada will remain protective (even against other parts of the Empire) with reference to all articles which she can produce; but as to those which she must import, she will give preference to products of the Empire. The resolution of the Canadian Manufacturers' Association expresses Canadian policy. It declares that while the

"tariff should primarily be framed for Canadian interests, it should nevertheless give a substantial preference to the mother country, and also to any other parts of the British Empire with which reciprocal preferential trade can be arranged: recognizing always that under any conditions the minimum tariff must afford adequate protection to Canadian products."

At first, Mr. Chamberlain objected most strenuously to this suggestion. In his speech in London before the Canadian Club there (March 25, 1896) he said:

"But the principle which I claim must be accepted if we are to make any, even the slightest, progress, is that, within the different parts of the Empire, protection must disappear, and that the duties must be revenue duties and not protective duties in the sense of protecting the products of one part of the Empire against those of another part."<sup>1</sup>

Mr. Chamberlain soon receded from this. He saw that protection would not disappear, and at Birmingham (May 15, 1903) he suggested a compromise. Canada, he observed, and the others have made certain progress in manufacturing; now

"suppose that we intervene in any stage of the process and say to them, 'There are many things which you do not now make,

<sup>1</sup> *The Times*, March 26, 1896.

## CHAMBERLAIN'S PROPOSALS AND CANADA 139

many things for which we have a great capacity of production — leave them to us as you have left them hitherto.' If we do not do this, Canada will fall to the level of the United States, Australia will fall to the level of Canada, South Africa will fall to the level of Australia."

That is to say, Canada and the others (from their standpoint) will rise to the level of the United States as a manufacturing country. Canada will not agree to any intervention tending to prevent or retard that consummation; and Canadians are glad to gather from Mr. Chamberlain's later speeches that from the policy of this one, also, he has receded — that he is now willing to negotiate preferential tariffs along the line of Canadian policy.

Indeed, one of his suggestions is a very distinct adoption of Canadian methods, and indicates the distance travelled since the declaration that "within the Empire protection must disappear." I refer to his proposal (Welbeck speech) "to put such a duty on flour as will result in the *whole* of the milling of wheat being done in this country."

Canadian mills would suffer heavily by the imposition of such a duty, but Canada would not complain — the leaf is out of her own book.

The flour suggestion is a very good illustration of the difficulties which will have to be met when we come to settle the terms of preferential treaty — difficulties so great that some persons declare that the necessary bargaining between different parts of the Empire will lead to friction, to ill-feeling, and possibly to dissolution. Canada's experience lends some color to this contention. The most formidable Canadian movement towards annexation with the United States arose because of the United Kingdom's termination (1846) of the preference which prior to that date she had given to Canadian products; and an increasing cordiality between Canada and

the United States was turned into hostility (1866) by the termination at the instance of the Americans of the reciprocity treaty. But such possibilities cannot be avoided. We cannot refrain from the creation of advantageous relations, either with the United Kingdom, or the United States, or any other power, merely because of possible differences. Such possibility must, no doubt, be one of the factors for careful consideration when making our bargain; and we must see to it that either we are in some way secured against it, or that the arrangement is sufficiently advantageous to justify the risk.

All, then, that Canadians can at present say upon the subject of protection and preferential tariffs is:

1. We believe in the protection and development of our manufactures; and we cannot agree (a) that "within the Empire protection must disappear"; or (b) that, with regard to articles which we do not now make, we will leave their manufacture to others; or (c) that we will order our affairs so that we may not "fall [or rather rise] to the level of the United States."

2. Nevertheless there is scope for preferential arrangements; and we believe that a treaty can be made which would be beneficial both to the United Kingdom and to Canada.

3. We are ready to try what a spirit of good-will can accomplish.

Thus far there can be little doubt that I have reflected Canadian opinion. There is another consideration, however, which has not been adequately (hardly at all) discussed in Canada. It relates to the indirect effect of preferential tariffs; by which I mean the hostility that would be aroused in other countries by preferential arrangements between the United Kingdom and Canada.

Some are foolishly inclined to declare that they do not

care what the effect would be. That, of course, is very absurd. We propose an arrangement in which we see certain advantages, and we are stupid indeed if we take no note of the disadvantages.

Others, with more appearance of reason, protest that Great Britain and Canada are both parts of one Empire; that we are perfectly entitled to make internal arrangements without properly provoking the hostility of anybody else; that the states of the American union and the German union have such arrangements, and no one deems them a matter for foreign protest or reprisal; and that if such countries object to what they are themselves doing—well, we must fight it out on that line.

An old adage tells us, "Be sure that you are right; then go ahead." As a matter of present and very unpleasant fact we are aware that Germany and Canada are at this very moment in a state of tariff war because our duties upon German goods are higher than on British, that is because of the preference which we give to British goods. Has Germany any reasonable ground for her action?

The essential difference between the case of Germany (permitting free interchange among her component states, while charging duty upon foreign imports) and ours is that Germany is for commercial (and other) purposes a unit. She is one country, with one tariff, one commercial policy, one control of foreign arrangements—she is a single fiscal entity.

The United Kingdom and Canada, on the other hand, are, for commercial purposes, quite separate and distinct. They have very different tariffs, different commercial policies, different foreign arrangements—they are two fiscal entities; so much so that they have negotiations, and are proposing commercial treaties with one another. Germans do not object if Lancashire goods go into London free of duty, even as

Saxony's output is not subjected to imposts in Berlin. But Germany regards Canada as commercially distinct from Great Britain, and so she is. It is not so in other empires: France, for example, and her colonies form one fiscal unit. Canada, in obtaining commercial independence while still retaining her association with the British Crown, has introduced a new phenomenon in colonial connection, and here is one of the problems with which it confronts us.<sup>1</sup>

It is useless for me to endeavor to settle the question. I cannot settle it. I state it for Canadian consideration with a view of enabling them to see the nature of the arguments against us; to point out to them that we are already suffering for our adhesion to our purpose of imperial preference; and to ask whether we are ready to fight it out on that line, no matter how disastrous the consequences. I am among the last to be charged with truckling to the United States, but consideration of reasonable consequences of a preference given by the United Kingdom to Canadian goods as against those going from the United States cannot and ought not to be disregarded. Our trade with our neighbors last year amounted to about two hundred million dollars; our imports from them being no less than sixty per cent. of our total imports. And the practical question is not whether we believe ourselves to be in the right, but whether we are so clearly, indisputably, and demonstrably right that we ought to regard the contrary view as such an unreasonable and unwarrantable encroachment upon our freedom of action as to be intolerable — to be repelled, no matter what the consequences.

For my own part I cannot deny that the German view has

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<sup>1</sup> Of arguments of this sort Mr. Balfour said that it was tantamount to a declaration that "Canada is not a part of the Empire." That may be true (see *ante*, "The British Empire"); but it does not invalidate the arguments.

much to support it. The Crown colonies are in every sense a part of the British Empire; but for almost all practical, legislative, and commercial purposes Canada is not. She legislates for herself. She enacts her own tariff. She hits at Germany (and other nations) without consulting anybody; and if she makes a preferential bargain with the United Kingdom, it will be because she chooses to do so and not because of any constitutional subordination to the United Kingdom.

A preferential system, then, may breed reprisals. That will mean a great deal to the United Kingdom, for her foreign trade is enormous; but relatively it may mean very much more to Canada. Her punishment would come principally, and with heavy hand, from the United States. Are we ready for it?

I know that few things could be more unpopular at this particular moment in Canada than a suggestion of reciprocity with the United States. I do not seek popularity, and care little for it. Let me say what I think. Frequently preferential tariffs with the United Kingdom and reciprocity with the United States are put in sharp antagonism the one with the other; and men say that they would rather have the first than the second. I can give no such answer. You might as well ask me whether I would rather have a British horse or an American bull. Everything depends upon the details of the two propositions. If you say that they would be equally valuable to me, I have no difficulty in saying that I prefer the horse. But this exact equality is extremely rare; and so I cannot say whether I should prefer British preference or American reciprocity. If I cannot have both, then I desire that which is best for Canada.

But why assume that the one necessarily excludes the other? Of course we cannot give to the United Kingdom, as against the United States, such a preference upon articles which they both produce as would exclude the American product; and at

## 144 CHAMBERLAIN'S PROPOSALS AND CANADA

the same time offer, to both their products, equality of access to our markets. But it must be borne in mind that our imports are of the most varied and diverse character, and it may well be that with reference to some of the articles comprised in what may be called our field for negotiations, there may be some with reference to which we could bargain with the United Kingdom, and others which would form the subject of agreement with the United States.

For example, is there any Canadian who would not gladly welcome a renewal of our reciprocity treaty with the United States which existed between the years 1855 and 1866? If there is, I am inclined to think that he has not given the subject much thought. That treaty would not, by its terms, prevent our establishment of the contemplated preferential arrangements with the United Kingdom, for it related to natural products only. And it was of vast benefit to us. Let me give you the figures showing our trade with the United States. Remember that the treaty period was March 16, 1855, to March 17, 1866. See table, p. 145.

Observe that in the year preceding reciprocity, our exports to the United States were \$8,784,412; that the next year they were \$15,118,289; that at the end of the treaty period they had risen to \$48,528,628; that they had therefore increased over 450 per cent. in twelve years; that in the following year they at once dropped to \$25,044,005, and that during the next thirty-four years they reached the highest reciprocity figure but once.

I am not of the opinion that our neighbors are willing to renew that treaty. I believe they are not. But I do think that there is a much stronger disposition south of the line than there ever has been, since 1866, to enter upon more sensible and mutually beneficial international trade relations than are represented by our present antagonistic tariffs. I

## CHAMBERLAIN'S PROPOSALS AND CANADA 145

Year ending June 30	Imports into United States	Exports from United States	Year ending June 30	Imports into United States	Exports from United States
	Dollars	Dollars		Dollars	Dollars
1850	5,179,500	9,515,991	1878	25,357,802	38,284,421
1851	5,279,718	11,787,092	1879	26,133,554	30,843,702
1852	5,469,445	10,229,608	1880	33,214,340	30,775,871
1853	6,527,559	12,423,121	1881	38,041,947	39,512,876
1854	8,784,412	24,157,612	1882	51,113,475	38,569,822
1855	15,118,289	27,741,808	1883	44,740,876	46,590,253
1856	21,276,614	29,025,349	1884	39,015,840	46,411,450
1857	22,108,916	24,138,482	1885	36,960,541	40,124,907
1858	15,784,836	23,604,526	1886	37,496,338	34,785,021
1859	19,287,565	28,109,494	1887	38,015,584	36,162,347
1860	23,572,796	22,695,928	1888	43,084,123	37,245,119
1861	22,724,489	22,676,513	1889	43,009,473	42,141,156
1862	18,511,025	20,573,070	1890	39,396,980	41,503,812
1863	17,484,786	27,619,814	1891	39,434,535	39,443,755
1864	29,608,736	26,574,624	1892	35,334,547	44,885,988
1865	33,264,403	28,829,402	1893	38,186,342	48,628,509
1866	48,528,628	24,828,880	1894	31,326,731	58,313,223
1867	25,044,005	21,020,302	1895	37,006,163	53,981,768
1868	26,261,379	24,080,777	1896	41,212,000	61,086,046
1869	29,293,766	23,381,471	1897	40,722,792	66,028,725
1870	36,265,328	25,339,254	1898	32,242,601	84,889,819
1871	32,542,137	32,276,176	1899	31,604,135	89,570,458
1872	36,346,930	29,411,454	1900	39,931,833	97,337,494
1873	37,649,542	34,565,113	1901	42,902,478	107,746,519
1874	34,365,961	43,473,174	1902	48,787,573	111,708,275
1875	28,271,926	36,225,735	1903	55,649,656	125,776,203
1876	29,010,251	35,004,131	1904	52,541,324	133,902,411
1877	24,277,378	39,374,180			



agree in reasonable protection for our own manufacturers; and I agree in preferential tariffs with the United Kingdom; but I do not agree that these things necessarily preclude us from friendly commercial relations with the rest of the world. If they do, I denounce them as detrimental not only to that spirit of harmony and good-will which should characterize our relations with our brother-men wherever they may be found, but detrimental also to our economic interests, disregard of which would not only be childish but unpatriotic, and well calculated by its ruinous results to dissolve every imperial association. The slightest familiarity with the necessities of the British and Canadian geographical, manufacturing, and commercial situation renders this assertion indisputable.

Summarizing thus far, then, we may say:

1. A protective policy may be of advantage to Great Britain, and, if so, it will sooner or later be adopted there.
2. Such a policy, unaccompanied by any special arrangements in our favor, would be detrimental to some Canadian industries.
3. Preferential arrangements between Great Britain and Canada, productive of direct benefit to both countries, can be made.
4. Such preferential arrangements (it depends upon the nature of them) may provoke retaliation on the part of other countries.
5. Whether the benefits of preferential arrangements will more than offset the injuries depends entirely (*a*) upon the specific nature of the arrangements, and (*b*) the extent to which hostility is induced, and the length to which it is carried.
6. Reasonable regard to the interests of others is not only proper but profitable.

7. A Pan-Britannic commercial league against the rest of the world would mean financial and commercial upheaval and disaster.

THE POLITICAL PURPOSES OF PREFERENCES

Mr. Chamberlain's purpose in proposing preferential tariffs within the Empire is predominantly political, and only secondarily economic. As this is probably not the general impression, I give some quotations from his speeches:

"I am a fiscal reformer mainly because I am an Imperialist, mainly because I believe that upon the maintenance of a great Empire we have inherited depends the greatness of our own country. In saying that, I do not wish to underestimate the economic side of the question we have under consideration, only I say that that is secondary; it is not vital" (*Times*, July 9, 1904).

"The tariff reformers believe, that by recovering our freedom of action and by rearming ourselves with the weapon of a moderate tariff, we may still defend our home market against unfair competition, and may at the same time secure a modification of foreign tariffs which would open the way to a fairer exchange of our respective products than we have hitherto been able to obtain.

"But they attach even greater importance to the possibility of securing by preferential and reciprocal arrangements with our colonies a great development of trade within the Empire and the nearer approach to a commercial union which, in some shape or another, must precede or accompany closer political relations, and without which, as all history shows, no permanent coöperation is possible" ("Speeches," Introduction, p. 9).

"We are prepared to make concession or changes in order to induce a larger intercourse between ourselves and you, believing a larger intercourse will tend to closer political union. We all desire commercial union as the first step towards political union and organization for common defence" (Rochester).

"Aye, as Yorkshire and Lancashire are bound to Middlesex and Surrey, so let Australia and Canada be bound to South Africa, to the United Kingdom" (Newport).

## 148 CHAMBERLAIN'S PROPOSALS AND CANADA

In his speech to the Canadian Club (already referred to) he indicated a purpose

“to create a new government for the British Empire — a new government with large powers of taxation and legislation over countries separated by thousands of miles, in conditions as various as those which prevail in our several dependencies and colonies; and said that he hoped to approach this desirable consummation by a process of gradual development.”

To my mind few things are more remarkable than the persistence of the notion (in spite of all experience to the contrary) that colonies must be governed and controlled, or they will cease to be of any use. The history of the growth of colonies is very largely the history of their struggles to be free, the history of a determination on the other side to retain supremacy. And now that some of the British colonies have reached their majority and are almost entirely self-controlled, the old idea is revived, in the more alluring form of a partnership or federation in which the United Kingdom would be the predominant partner, and to which the colonies would give up a part of that self-government which with such difficulty they have at last succeeded in securing.

Mr. Chamberlain has frequently been charged with misrepresenting colonial opinion. So far as he has declared that Canada is desirous of preferential arrangements with the United Kingdom, he is quite within the truth; but I am bound to say that he has been misinformed, and is far from correct when he asserts that Canada wishes either commercial or political union with Great Britain and Ireland. And it is but right to correct him upon this point, for Canada at least does not desire to obtain any advantages by pretending that she is desirous of commercial or political federation.

I believe that I speak the mind of Canada when I say that the following language of Mr. Chamberlain is not well founded:

"Here are eleven millions of white men — flesh of your flesh, blood of your blood, of the same religion, and with the same reverence for the British Empire — claiming to share its history and its glorious past; they are willing to unite their future to yours" ("Speeches," p. 99).

"Well, what is the position? These great colonies of ours have decided with a unanimous voice — which is wonderful if you consider the differences of their circumstances, the variety of their conditions, the number of their local and separate interests — that this great question of union can best be approached on the commercial side" (Birmingham, p. 12).

"What do you say to these men who retain so lively a recollection of their connection with the Old Country, who long for the time when we shall be indeed a united Empire? Will you snub them? Will you reject the offers which they make to you? Then, indeed, you are not worthy of the inheritance that you have gained from the ancestors who fought for it and who have left to you the duty of maintaining it.

"I believe that our children are ready and willing to share the privileges of the Empire, and at the same time to share its responsibility. And these growing states — great already, but whose future greatness it is impossible for any of us to measure — will now, if we are willing, freely associate their fortunes with ours.

"In my opinion the two great objects which I have in view — the prosperity of the home trade and the closer union of the Empire — are within our reach."

I have not Mr. Chamberlain's ability nor in very many lines his experience, but, nevertheless, I have some confidence that I understand the Canadian side of questions better than he does. In fact, it is quite possible that to the Canadian side I have given too much attention. Nevertheless, there is a Canadian side, and I have no hesitation in saying that the Canadian attitude towards "closer union of the Empire" is that the powers of self-government which we possess we shall hold; that while we are absolutely loyal to our King, we owe no fealty or subjection whatever to Westminster or to Downing Street; that we have our own fiscal ideas, and

## 150 CHAMBERLAIN'S PROPOSALS AND CANADA

we do not intend to submit them for revision to electors who, as many of our people think, are unable rightly to settle their own tariff — who are the despair of Mr. Chamberlain himself; that we have our own notions as to our own development, and are not inclined to brook criticism of them from those millions who know little of the conditions and aspirations of a young, vigorous community of gigantic proportions and illimitable possibilities; that we are a democratic, peace-loving community, and that we are ill-suited for political union with a nation whose characteristics are much more decidedly aristocratic, hierarchical, and militarist than ours, and whose predominance in federal councils would make us mere indorsers of a policy that we do not approve. Coöperation with our sister British states and not incorporation in them is, in our judgment, the best way in which all interests may be advanced and subserved.

Mr. Chamberlain insists upon binding "these folks of ours" not only "by the bond of commercial unity," but by a political union which will bind Australia and Canada to South Africa and the United Kingdom, even "as Yorkshire and Lancashire are bound to Middlesex and Surrey." Is it possible that a man of Mr. Chamberlain's acumen has not discovered that bonds of this sort do not bind? that it was bonds, legislative and administrative, that severed the American colonies from the mother country? that it was bonds that provoked the Canadian rebellions in 1837? that it was bonds that kept Ireland poor and discontented? and that it is the removal of bonds that has partially reconciled the glad green isle, and has produced in Canada the enthusiastic and demonstrative loyalty to the British Crown which Mr. Chamberlain so much admires, but so strikingly misinterprets? It may be that the establishment of preferential trade relations with the United Kingdom will, by encouraging mutually profitable intercourse,

tend to increase the sympathy between the two countries. But all that can be done in that way can be accomplished by treaty. Commercial union is not only not necessary for the purpose, but would be injurious.

What has thus far been said as to Mr. Chamberlain's proposals has been based upon his speeches merely, and Canada's reply has been formulated in my own language. Proposals and reply are, however, to be found in much more satisfactory, because authoritative, form; namely, in the records of the various imperial Conferences.

In his opening speech at the Conference of 1897 Mr. Chamberlain said that it would be desirable "still further to tighten the ties which bind us together." He thought

"that it might be feasible to create a great Council of the Empire to which the colonies would send representative plenipotentiaries; not mere delegates who were unable to speak in their name, without further reference to their respective governments, but persons who by their position in the colonies, by their representative character, and by their close touch with colonial feeling, would be able, upon all subjects submitted to them, to give really effective and valuable advice. If such a Council were to be created, it would at once assume an immense importance, and it is perfectly evident that it might develop into something still greater."

The reply of the colonial Premiers was as follows:

"The Prime Ministers here assembled are of the opinion that the present political relations between the United Kingdom and the self-governing colonies are generally satisfactory under the existing condition of things."

Mr. Seddon and Sir E. N. C. Braddon dissented. At the next Imperial Conference (1902), called to discuss "the political and commercial relations of the Empire and its naval and military defence," Mr. Chamberlain was a little more urgent and insistent, if not just a trifle impatient:

## 152 CHAMBERLAIN'S PROPOSALS AND CANADA

"I say our paramount object is to strengthen the bonds which unite us, and there are only three principal avenues by which we can approach this object. They are: through our political relations, in the first place; secondly, by some kind of commercial union; in the third place, by considering the questions which arise out of imperial defence. These three great questions were considered at the last Conference, and I think it is clear they must form the principal subject of our deliberations on this occasion, and, indeed, of those of any future Conferences which may afterwards be held. I may be considered, perhaps, to be a dreamer, or too enthusiastic; but I do not hesitate to say that, in my opinion, the political federation of the Empire is within the limits of possibility."

Referring to a suggestion for colonial representation in the imperial House of Commons, he said:

"If it comes to us, it is a proposal which His Majesty's government would certainly feel justified in favorably considering; but I have always felt myself that the most practical form in which we would achieve our object would be the establishment or creation of a real Council of the Empire to which all questions of imperial interest might be referred, and if it were desired to proceed gradually, as probably would be our course — we are all accustomed to the slow ways in which our constitutions have been worked out — if it be desired to proceed gradually, the Council might in the first instance be merely an advisory Council. It would resemble, in some respects, the advisory Council which was established in Australia, and which, although it was not wholly successful, did nevertheless pave the way for the complete federation upon which we now congratulate them. But although that would be a preliminary step, it is clear that the object would not be completely secured until there had been conferred upon such a Council executive functions and perhaps also legislative powers, and it is for you to say, gentlemen, whether you think the time has come when any progress whatever can be made in this direction."

For commercial basis, Mr. Chamberlain desired free trade within the Empire:

"Our first object, then, as I say, is free trade within the Empire. We feel confident — we think that it is a matter

which demands no evidence or proof, that if such a result were feasible it would enormously increase our inter-imperial trade; that it would hasten the development of our colonies; that it would fill up the spare places in your lands with an active, intelligent, and industrious, and, above all, a British, population; that it would make the mother country entirely independent of foreign and raw material."

As to colonial contributions to imperial defence, he said:

"But now that the colonies are rich and powerful, that every day they are growing by leaps and bounds, their material prosperity promises to rival that of the United Kingdom itself, and I think it is inconsistent with their position — inconsistent with their dignity as nations — that they should leave the mother country to bear the whole or almost the whole of the expense. And I think, therefore, you will agree with me that it is not unreasonable for us to call your serious attention to a state of things which cannot be permanent. I hope that we are not likely to make upon you any demand which would seem to you to be excessive. We know perfectly well your difficulties, as you probably are acquainted with ours. Those difficulties are partly political; partly, principally probably, fiscal difficulties. The disproportion to which I have called your attention cannot, under any circumstances, be immediately remedied, but I think that something may be done — I hope that something will be done — to recognize, more effectually than has hitherto been done, the obligation of all to contribute to the common weal."

The Colonial Defence Committee presented a memorandum to the Conference, in which they said:

"For these reasons the Colonial Defence Committee earnestly hope that the great self-governing colonies may be able to give some assurance as to the strength of the contingents which they should be able to place at the disposal of His Majesty's government for extra-colonial service in a war with a European power."

And Lord Selborne proposed cash contributions to the British navy.

In their reply the Premiers made no reference to political relations, probably judging that the resolution of the previous



## 154 CHAMBERLAIN'S PROPOSALS AND CANADA

Conference sufficiently showed their views. As to commercial matters, they resolved:

"That this Conference recognizes that, in the present circumstances of the colonies, it is not practicable to adopt a general system of free trade as between the mother country and the British Dominions beyond the Seas.

"That with a view, however, to promoting the increase of trade within the Empire, it is desirable that those colonies which have not already adopted such a policy should, as far as their circumstances permit, give substantial preferential treatment to the products and manufactures of the United Kingdom."

The reply of Canada and Australia to the request for contingents was as follows:

"The representatives of Canada and Australia were of opinion that the best course to pursue was to endeavor to raise the standard of training for the general body of their forces, to organize the departmental services and equipment required for the mobilization of a field force, leaving it to the colony, when the need arose, to determine how and to what extent it should render assistance."

Canada's reply to the request for contribution to the navy was as follows:

"The Canadian ministers regret that they have been unable to assent to the suggestions made by Lord Selborne respecting the navy and Mr. St. John Brodrick respecting the army. The ministers desire to point out that their objections arise, not so much from the expense involved, as from a belief that the acceptance of the proposals would entail an important departure from the principle of colonial self-government. Canada values highly the measure of local independence which has been granted to it from time to time by the imperial authorities, and which has been so productive of beneficial results, both as respects the material progress of the country and the strengthening of the ties that bind it to the motherland. But while, for these reasons, the Canadian ministers are obliged to withhold their assent to the propositions of the Admiralty and the War Office, they fully appreciate the duty of the outlay for those

## CHAMBERLAIN'S PROPOSALS AND CANADA 155

necessary preparations of self-defence which every country has to assume and bear.

"That the taxpayers of the United Kingdom should desire to be relieved of some of the burdens which they bear in connection with military expenditure is quite reasonable. Canada in the development of its own militia will be found ready to respond to that desire by taking upon itself some of the services in the Dominion which have hitherto been borne by the imperial government. What has already been done by Canada must give assurance of the disposition of the Canadian people to recognize their proper obligations.

"At present Canadian expenditures for defence services are confined to the military side. The Canadian government are prepared to consider the naval side of defence as well. On the sea-coasts of Canada there is a large number of men admirably qualified to form a naval reserve, and it is hoped that at an early day a system may be devised which will lead to the training of these men and to the making of their services available for defence in time of need.

"In conclusion the ministers repeat that, while the Canadian government are obliged to dissent from the measures proposed, they fully appreciate the obligation of the Dominion to make expenditures for the purposes of defence in proportion to the increasing population and wealth of the country. They are willing that these expenditures shall be so directed as to relieve the taxpayer of the mother country from some of the burdens which she now bears, and they have the strongest desire to carry out their defence schemes in coöperation with the imperial authorities, and under the advice of experienced imperial officers, so far as this is consistent with the principle of local self-government, which has proved so great a factor in the promotion of imperial unity."

Mr. Chamberlain does not quite appreciate this attitude, and yet it is a necessary corollary from Canada's political position as recognized by no one, now, more clearly than by Mr. Chamberlain himself. In his very recent speech to the Canadian Manufacturers' Association (Birmingham, June 26, 1905) he said:

"What are we all? We are sister states, in which the mother country, by virtue of her age, by virtue of all that she

has done in the past, may claim to be first, but only first among equals. Now the question is, How are we to bring these separate interests together, these states which have accepted one Crown and one flag, and which in all else are absolutely independent one of the other?"

To Canadians it appears axiomatic that if they are an independent state, they ought to build up military and naval forces of their own, rather than send money to any other state, of equal or unequal rank with them, to be expended by it. That we are under one Crown is no reply to this. If it is, then I say: "Canada has a magnificent lot of men engaged in her fisheries, as well fitted for naval employment as any men in the British Isles; but Canada's income must very largely be spent upon her growth; let, therefore, the United Kingdom remit to Ottawa a couple of millions annually to be spent by Canada in the creation of a Canadian navy." That would appear to our British brothers to be a very ridiculous proposition, but it is really quite as sensible as the suggestion that the check should go from Canada. To my mind, it is perfectly clear that Canada's contribution to defence must be along the lines of national growth. She must strengthen herself, train her own men, maintain her own forces, and thus learn to do her own fighting. In the past Canada has done her share, and more than her share, in the Empire's wars — wars which she had no share in declaring, and as to which her opinion was not asked. It is now proposed that besides continuing war help, she should contribute to the peace establishment, not of the Empire, but of the United Kingdom. She has declined to do so. And she is right. Let each part prepare itself in time of peace. The whole will thus be the stronger when comes the stress of war.

Canada's attitude, then, as to Mr. Chamberlain's proposals is as follows:

## CHAMBERLAIN'S PROPOSALS AND CANADA 157

1. Protection is Canada's policy. She offers no suggestion as to that of the United Kingdom.

2. Canada favors the idea of preferential tariffs throughout the Empire. The terms, and their effect upon other nations, are matters for most careful consideration.

3. Canada is an independent state under the same Crown as is the United Kingdom. She will not enter any commercial union, nor agree that her tariffs shall be regulated by any body other than her own Parliament. And no political union, which would remove from her exclusive governance the control of any part of her own affairs, would be acceptable to her.

4. At the same time Canada anticipates and desires eternal association with the United Kingdom; for therein she sees benefit not only to herself, but to the United Kingdom and to the world. Coöperation always, incorporation probably never, is the summation of the whole matter.

5. Lastly, Canada is not prepared to agree beforehand that she will assist in every war in which, without consultation with her or without her assent, the United Kingdom may at any time be engaged. Sir Wilfrid Laurier, speaking against Imperial Federation, has said (Hansard, April 7, 1892):

"I do not believe in Imperial Federation. If colonists are to be represented at Westminster in the same way that Englishmen, Irishmen, and Scotchmen are represented, then of course colonists must assume the duties and responsibilities which are borne by Englishmen, Irishmen, and Scotchmen to carry on the wars which are almost perpetually engaged throughout the civilized and uncivilized world. I think these are consequences before which the people of Canada will recede."

Just before proceeding to the Imperial Conference of 1902 Sir Wilfrid said:

"We are invited to discuss the commercial situation, the political situation, and the military situation. Our answer has gone forth at the same time that we see little advantage in

## 158 CHAMBERLAIN'S PROPOSALS AND CANADA

discussing the political situation or the military situation. . . . It would be a most suicidal policy for the Canadian people to go into any scheme of that nature. It would be the most suicidal policy that could be devised for Canada to enter into that vortex in which the nations of Europe — England included — are engaged at the present time, and which compels them to maintain great military armaments. . . . The principal item in the British budget is the expenses for naval and land armaments. . . . Now my honorable friend<sup>1</sup> says that Canada should follow in the same course, that she should take part in the scheme of imperial military defence. Sir, Canada is in a different position. Canada is a nation with an immense territory but with a sparse population of five and three-quarter millions of souls, scattered over an area of three thousand miles in extent from east to west. The principal items in the budget of Canada are what? — public works, the development of the country, the construction of railways and harbors, the opening up of ways of transportation. This is the work to which we have to devote our energies, and I would look upon it as a crime to divert any part of that necessary expenditure to the supply of guns, cannon, and military armaments.”

These pronouncements of the Premier of Canada have never been challenged by any of the leaders of the political party opposed to him. They indicate that not only as regards commercial questions, but as to all other matters, Canada intends to control her own affairs. Her affection for the United Kingdom is deep and indisputable, but her national status precludes the possibility of submission to any governance but her own.

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<sup>1</sup> Mr. McLean, a somewhat independent member.

## IMPERIAL FEDERATION AND THE COLONIAL CONFERENCES

THE completed history of the Imperial Federation movement may now be written. Based upon racial instincts rather than community of interests, upon sentiment rather than reason, it appealed strongly to that very large class of persons to whose minds military glory and world domination are matters of chiefest importance. And had its purposes remained nebular; had it continued as it commenced, a racial and sentimental aspiration; had its advocates, abjuring schemes and reasons, persisted in preaching "federation in the abstract"; had they, more particularly, refrained from the assembling of colonial statesmen practically to discuss it and reason about it, federation societies might still be declaiming and waving, with some little superficial appearance of possible success. But an appearance only; for an eternity of preaching about "federation in the abstract," without a preacher ingenious or bold enough to promulgate some outline of the thing he was preaching about, could of course produce nothing but more or less plentiful crops of "hurrahs."

Admonished to this effect, the federationists turned to federation in the concrete; quarrelled about it; appealed to Colonial Conferences to tell them how to arrange it; and are now silent under the authoritative and conclusive reply that Colonial Conferences will not try to arrange it — that Colonial Conferences make for colonial independence, and not for federation at all. Let us follow the story.

*The Imperial Federation League.* — Slow reaction from the idea that colonies were millstones round the British neck

produced a strong tendency in the contrary direction — produced in England in 1884 “The Imperial Federation League” whose principal resolution declared

“that in order to secure the permanent unity of the Empire some form of federation is essential,”

and whose constitution affirmed that

“the object of the League is to secure by federation the permanent unity of the Empire; that no scheme of federation should interfere with the existing rights of local Parliaments as regards local affairs; and that any scheme of imperial federation should combine on an equitable basis the resources of the Empire for the maintenance of common interests and adequately provide for an organized defence of common rights.”

No attempt being made to define “local affairs” or to suggest any plan of combination, the League enlisted the sympathies of men whose general aspirations it expressed, but whose views as to methods were fundamentally irreconcilable. For several years all went fairly well. The League published a journal; some of its members wrote articles and letters; others, including Lord Rosebery, Lord Brassey, and Mr. W. E. Forster (the first president), made speeches; Canadian Imperialists established a branch.

Within two years enthusiastic activity had produced such seeming success that the League was able to prevail upon Lord Salisbury to summon a Colonial Conference to consider questions of imperial defence and imperial postal and telegraphic communications. The Conference met in the spring of 1887, and its principal result, the agreement of the Australasian colonies to contribute for ten years £126,000 per annum to the imperial navy, seemed like a distinct victory for Imperialists. Encouragement was found, too, in the language of Sir Samuel Griffiths of Queensland, who said at the Conference:

"I think we may look forward to seeing this sort of informal council of the Empire developed, until it becomes a legislative body."<sup>1</sup>

The propaganda proceeded. Lord Rosebery became president of the League in 1888; in 1889 Mr. George R. Parkin undertook missionary work in Australia; in the same year the League resolved

"that the establishment of periodical Conferences of the representatives of the self-governing communities of the Empire should be the first aim of the Imperial Federation League,"

and in 1891 it again proceeded in deputation to Lord Salisbury, asking

"that the government should convoke at the earliest timely date a conference of the self-governing countries of the Empire, to consider the question of securing to them a real and effective share in the privileges and responsibilities of the Empire."

Lord Salisbury declined to comply until somebody had proposed something for discussion. He said:

"Lord Brassey, and I think several speakers, rather claimed it as a virtue on the part of the society that they had no cut-and-dried scheme to propose. I think that is an extravagant modesty on their part. I do not know precisely what the meaning of the adjectives may be, but I think that we are almost come to the time when schemes should be proposed, and that without them we should not get very far."

For seven years the League had worked for "imperial federation in the abstract," and had done wonderfully well. It had now to encounter the test of practicability. It did what it could — it appointed a committee. And the committee did what it could — it obtained opinions, and considered, and discussed, and compromised, and produced a

<sup>1</sup> "Proceedings of the Conference," p. 561.



report (July, 1892) in which it declared that the two essentials of Empire were

“(a) That the voice of the Empire in peace, when dealing with foreign powers, shall be, as far as possible, the united voice of all its autonomous parts.

“(b) That the defence of the Empire in war shall be the common defence of all its interests and of all its parts, by the united forces and resources of all its members.

“It may be laid down as a leading principle that as all parts of the Empire enjoy the benefits of imperial defence, they should contribute to its cost” — money spent upon local defences to be deemed a contribution.

The committee proposed the formation of a “Council of the Empire” (to deal with “imperial defence”), and of a “Naval and Military Council”; and that a conference should be summoned to ascertain the views of the colonies, and to determine “the basis upon, and the method by which contributions should be raised.” The report made reference to various other subjects which

“though non-essential to the maintenance of the permanent unity and integrity of the Empire, may be recommended as conducive to the same end” — matters of trade, postage, etc.

Sir Charles Tupper was a member of the committee. He was opposed to colonial contribution to the British navy, and defended his concurrence in the report as follows:

“Knowing as I do that the most active members of the committee were mainly intent on levying a large contribution on the revenues of the colonies for the support of the army and navy of Great Britain, I am delighted to have been able, almost single-handed, to obtain such a report from such a committee.”

The report was as close an approach to a scheme as the League could agree upon, and, with it, a deputation returned (April, 1893) to the Prime Minister (now Mr. Gladstone),

who demurred to its vagueness, and declared that in any case the time was inopportune for another conference.

Although not very definite, the scheme, or rather the discussions which led up to it, had produced such dissension in the League that its dissolution was inevitable. At its last meeting the secretary said:

“There is a party within the League which holds that a commercial union of the Empire is essential to any federation; and there is a party which holds that such a union would not constitute a federation, or that in any case a change in the fixed policy of this country would be too great a price to pay for it. Again there are those who hold that the combination of the resources of the Empire for defence is the first and main point in the federation, and that no permanence of unity can exist without it. And there are those on the contrary who hold that to increase the influence and representation of the colonies in the United Kingdom is good, but that any addition to the responsibility of the colonies in this matter is undesirable and unnecessary.”

Finally the view prevailed that

“the League was formed for the purpose of advocating imperial federation in the abstract, and that as it had now become necessary to define more precisely what was aimed at, a fresh start should be made.”

Thus ended in 1893 the Imperial Federation League.<sup>1</sup> The League was dissolved, and the two parties separated, each to prosecute its own idea — the one urging federation with a view to war coöperation, and the other seeking for preferential

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<sup>1</sup> For more detailed history of the League reference may be made to a paper read before the Royal Colonial Institute, January, 1893, by F. de Labillière on “British Federalism, Its Rise and Progress,” reported in the Transactions of the R.C.I., Vol. XXIV, p. 95; to the *Journal of the Imperial Federation League*, — especially the issue of October, 1892, Vol. VII, p. 227; to a volume entitled “Papers and Addresses, Lord Brassey”; and to an article in the *National Review*, by Robert Beaden: “Why the Imperial Federation League was dissolved,” Vol. XXII, p. 814.

commercial arrangements merely. The first of these parties may be called by Mr. Chamberlain's name because he has been its greatest leader. The second may be called "Canadian": first, because it was Sir Charles Tupper (then Canada's High Commissioner in London) who as a member of the League upheld the commercial view; secondly, because preferences were originated in Canada; thirdly, because the Ottawa Conference of 1894 and Canada's preferential tariff of 1897 forced the cancellation of the Belgian and German treaties and so made preference possible; fourthly, because Canada more than any other colony has upheld the principle of colonial self-government. Thus far, neither of these parties has been completely successful; but while the Chamberlain scheme is dead, the Canadian preferential plan has been accepted by the Empire, with the exception of the United Kingdom, and, through the conversion of Mr. Chamberlain from free trade to protection, has done much toward gaining that most important dissentient.

The old League having been dissolved, two new ones were formed in England, each representing one of the views just referred to. "The Imperial Federation (Defence) Committee," formed in 1894, adopted the leading principles of the old League and specially declared

"that combination for defence of common interests is therefore, as was recognized in 1884, the one essential point and the test of the practicability of imperial federation.

"That if the self-governing colonies take their share in the cost of such a system of defence [maritime defence], they must have a proportionate share in its administration and control, and if those colonies are not willing to take their share in a common system of defence, it is evident that federation is not practicable."

"The British Empire League," formed in the same year, had for its principal object

“To promote trade between the United Kingdom, the colonies, and India.”<sup>1</sup>

The operation of these societies need not detain us, for the following year (1895) marked the commencement of Mr. Chamberlain's imperialistic activities; and, he being Secretary of State for the Colonies, the contest broadened into a contest between the governments of the United Kingdom and Canada — Mr. Chamberlain using all his great resources and all the influence of the government of which he was a member in furtherance of federation; Canada respectfully insisting upon self-government (refusing to move a hair's breadth from self-government) and quietly urging her schemes of imperial cables, imperial commercial preferences, etc. Mr. Chamberlain's side has been retired without a single run. Canada is scoring rapidly.

The importance of the issues involved in this great contest is not, as yet, fully appreciated; the greatness of Canada's victories has not been sufficiently recognized; and the strength, tact, and statesmanship of Sir Wilfrid Laurier and his colleagues have yet to receive the full measure of acknowledgment and admiration which they merit.

For this there are several reasons. Perhaps the principal of them is that the Canadian government's actions have always so completely commended themselves to the vast majority of Canadians that they have passed, not only without criticism, but almost without notice.

Another reason is to be found in Mr. Chamberlain's conversion to the Canadian scheme of preferential tariffs and his great British campaign in favor of its adoption. To very many people it appeared that Mr. Chamberlain and Canada

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<sup>1</sup> War coöperation was not omitted, but it was advocated “with a special view to the due protection of trade routes.” In this respect it went beyond the purely commercial Canadian scheme.

were in complete agreement. They were not. Mr. Chamberlain had indeed accepted protection and preferential tariffs, but for an ulterior purpose — in the hope and in the belief that commercial coöperation might engender commercial union, and that from commercial union might spring political federation. Canada desired no such future, and was not afraid of Mr. Chamberlain's prognostications.

Canada was well prepared for the contest. Her provinces, more than the other colonies, had struggled for self-government, and it was consequently dearer to her. Consolidation, moreover, in 1867, had given her an importance, a prestige, and a nascent consciousness of nationality, little felt by her sister colonies. Rapidly increasing wealth, too, and clearer conception of her illimitable possibilities of expansion had made all schemes of renewed subjection to Old Country ideas impossible of acceptance — made anything but absolute self-government an anachronism and an absurdity.

Nevertheless Canada was in danger — not from frontal attack (Mr. Chamberlain was far too shrewd for that), but from all sorts of clever turning manœuvres, exceedingly difficult to defeat. Boldly and energetically Mr. Chamberlain tried one scheme after another, delivered one assault after another upon colonial independence, at the same time telling us with the utmost frankness what through "a process of gradual development" his ultimate object was:

"a new government with large powers of taxation and legislation over countries separated by thousands of miles of sea."

It has been said that Mr. Chamberlain understood colonial feeling better than any other British statesman. That he completely misunderstood it, is plainly apparent by the use of such language. It occurred in an address to the Canadian Club (London, March 25, 1896):

"In the year 1884 a League was formed — the Imperial Federation League — under the most favorable auspices. The late Mr. Forster was its president, and it afterwards enjoyed the assistance of a long series of distinguished statesmen and prominent personages; but two years ago it was dissolved without having accomplished its object, unless indeed its sole object was the education of public opinion to the importance of the subject. But during its career it was again and again challenged to produce a plan, and it was unwilling or unable to answer the challenge. Sir, I think that we may, at all events, learn from its experience that the realization of our hopes, if they are in the direction of a federation of the Empire — their final realization — is a matter of such vast magnitude and such great complication that it cannot be undertaken at the present time. But it does not follow that on that account we should give up our aspirations. It is only a proof that we must approach the goal in a different way; that we must seek the line of least resistance. To create a new government for the British Empire — a new government *with large powers of taxation and legislation over countries separated by thousands of miles of sea*, in conditions as various as those which prevail in our several dependencies and colonies — that, indeed, would be a duty from which the boldest statesman might shrink appalled. We may, however, approach the desirable consummation *by a process of gradual development.*"

Why, for example, Mr. Chamberlain asked, should there not be an imperial Court of Appeal? And why might not the colonies raise and maintain a certain "Imperial Field Force" for foreign service in imperial wars? What colonial contingents, meanwhile, may be counted upon in case of European war? Ought not the colonies in any case to contribute to the imperial navy? And why might we not have an imperial Council — not at all (don't be afraid) to interfere (at the outset) with local autonomy; but merely to consider matters in which we are all interested, and to give very good advice, and (who knows) to grow into a legislature? Why not a permanent "Imperial Secretariat" under direction of the Council to carry on its work between the sittings?

No, said Canada, to every one of these proposals. Every one of them would be an encroachment upon the principle of self-government. Every one of them is tainted with colonial subjection, which, with us, is at an end or very nearly so. But Canada said these negatives very nicely; and she had the great advantage of being able at the same time to offer to the United Kingdom preferential trade advantages, which not only soon proved to be of great value to the British manufacturer, but which quite distracted attention from her refusals.

Let us relate the history of Mr. Chamberlain's proposals and defeats. It is very interesting, and as important in its results (the maintenance of self-government) as were the struggles which in earlier days first gained for us responsible government, and, at length, the frank acknowledgment of the right to manage our own affairs.

## IMPERIAL DEFENCE

CHARACTER being the product of environment, Germany is militarist and China pacific. If these two countries had the same Sovereign and the same Parliament and were peopled by the same race, the European would still be warlike and the Asiatic peaceful; upon questions of defence, they could not agree; and "the interests of the Empire as a whole" would have little common meaning.

It is not otherwise in the British Empire. Insular and fairly safe from invasion, but having colonial and other interests throughout the world, the United Kingdom aims at high naval supremacy and maintains an equipment superior to that of any other two powers. At the same time she is keenly anxious about the European "balance of power" — Belgium and Holland and Switzerland must remain independent; Germany must not be allowed to efface France; Russia must be impeded in her southern expansion; Turkey must be kept in order; alliances and ententes for these purposes must be sought and cultivated.

Australia, a huge, sparsely populated island-continent with French, German, Dutch, and Asiatic neighbors, lacking strength sufficient to guard, or even to occupy, her territory, and without financial ability to provide the naval protection which might be needed to-morrow — Australia for many years yet must depend upon association with the British navy for defence. Mr. Deakin (Australia's Prime Minister), at the Conference of 1907, said:



"Our position at the other side of the globe, surrounded by alien races to whom we cannot look for aid or assistance in this matter, or indeed in any other, and far from any sources of supply of arms and material of war, is very different, and we feel its urgency" ("Proceedings," p. 105).

"Practically every capital, with perhaps the single exception of Perth, is upon the sea; Sydney, Adelaide, and Hobart are all easily approachable from the sea. In the case of Melbourne, Port Phillip Heads and the forts there could, if effective, keep an attacking force at a distance. Yet, supposing the Heads to be passed, Melbourne too would lie directly open to any attacks. Brisbane runs a somewhat similar risk" (*Ib.* p. 474).

But Australia has little interest in the European situation, save that its disturbance may bring her neighbors upon her.

In much the same case as Australia are New Zealand and South Africa, while in the latter the presence of a very large element of Dutch, and overwhelming millions of natives, forms an additional difficulty and a special ground for apprehension. At the Colonial Conference of 1907 Sir Joseph Ward (New Zealand's Prime Minister) said:

"I do not want to raise questions which might be looked upon as troublesome, but we do fear some of the eastern countries, whose teeming millions, so close to Australia and New Zealand as they are, under an educational process in the years to come, may find the attractions of our country sufficient to induce them to give us some trouble" (*Ib.* p. 137).

"I want to make the position clear, so that the Admiralty, who are no doubt better posted upon these matters than I am, may know. We have fourteen towns on the sea-coast. The majority of them are very important towns. There is not one of them that is more than nine miles, at the outside, from the ocean or to the port, unless it be the city of Dunedin, which to the ocean itself, irrespective of the means of ingress and egress that ships have to take, is only five or six miles away from the Pacific" (*Ib.* p. 477).

At the same Conference Mr. Moore (Natal's Prime Minister) said:

“We feel, sir, that in that part of the world we are especially bound to take the gravest notice of our military efficiency. We not only hold a most unique position as regards the Empire in the event of a general war, being in such a very important position with regard to all the important trade routes, which is the imperial aspect, but we also have a very unique position as regards our local environments with respect to the large native population that it is our duty and our burden to govern and control” (*Ib.* p. 113).

Canada, more happily situated, has nothing to fear. Her only neighbor is as pacific as herself. Upon their three thousand miles of boundary there is no fortification, and upon their separating lakes there are no warships. Twice, indeed, they have been at war, but upon no quarrel of their own. For almost a hundred years they have been friends — friends, with now and then a friendly disagreement. From over-sea invasion, Canada is sufficiently secure; for (1) war with European or Asiatic, upon Canada’s own account, is in the last degree improbable; (2) if the United Kingdom should enter such a war, her opponent’s fleet would almost certainly have little opportunity to go anywhere, and would assuredly not come thousands of miles from its nearest coaling-station to invade Canada; and (3) although we might suffer some loss, our territory is secure, (a) because we are strong enough to cope with any expedition that could be sent so far, and (b) because our friends to the south, if need be, would help to keep the continent free from outside occupation.

Suppose now that the United Kingdom, Australia, New Zealand, South Africa, and Canada should meet to discuss questions of defence — “the interests of the Empire as a whole” — what shall we expect? The question is not difficult, even *à priori*; and the Conferences have made the answer clear to everybody.

*Australian Anxieties.* — Until the eighties of the last cen-

tury little attention was paid to questions of imperial defence.<sup>1</sup> Australian anxieties in connection with the islands of the Pacific forced its consideration.

To Australia, the ownership of the scores of islands which cloud her horizons was a matter of supremest importance. Governor Philip's patent included in New South Wales territory the "adjacent islands"; and the New Hebrides were included in New Zealand at the establishment of that colony. But the United Kingdom was slow to declare any definite claim to these associated islands, although the Australian colonies constantly and urgently pressed the necessity for action. The whole history cannot be told here, but the Australian view, as represented by Mr. Deakin at the recent Conference (1907), is worth notice as illustrative of divergent opinions produced by dissimilar environment:

"There was a time — and that not so far distant — when this ocean was ignored and these islands were little visited because they presented small opportunities of trade or settlement — a time at which Great Britain was so much the predominating power that almost anything desired in the way of possession or suzerainty could have been acquired without much difficulty. Of course the dead past must be left to bury its dead, but some reference is necessary to the indifferent attitude of statesmen in this country, a not unnatural attitude because to the United Kingdom the Pacific is remote and not over the greater part of it even a highway of much traffic. On the other hand, to Australia and New Zealand in particular, and also to Canada, the future of the Pacific is extremely important, and may become more so at any time, now that attention is directed to its great spaces where rival nations have found a footing, and are if anything disposed to strengthen their hold. This difference of situation led from the first to a different attitude of mind on the part of the people of the commonwealth and New Zealand, the people of Australasia, as compared with that of the people of the mother country."

<sup>1</sup> See "Proceedings of the Colonial Conference of 1887," p. 277. Note also the surprise with which, at that Conference, the Secretary of State for War learned of the amounts expended by the colonies upon defence.

"Thus the opposite points of view of those who live by the Pacific Ocean, as in our case, and those on this side whose shores are washed by the North Sea, have been the chief ground for difference" ("Proceedings," pp. 548, 549).

Referring to a Colonial Office reply to one of his letters complaining of "the inaction of the imperial government," Mr. Deakin said:

"I was directed to this document as expressing the views which are still held. In this despatch it is pointed out that a vast extent of territory in the Pacific Ocean has been definitely brought under British control during the last thirty years. It must not be forgotten, as I have already said, that it was indefinitely under British authority before that; but the statements here made show what parts were definitely brought under British control during the last thirty years. Reference is made to Fiji, part of New Guinea, the Solomon Islands, the Gilbert and the Ellice Islands, and the Cook Group, most of those acquisitions having been made as is admitted mainly (sometimes entirely) of the interests and sentiments of Australia and New Zealand. Now that is perfectly true. But for the action of Australia and New Zealand, there would not be an island to-day in the Pacific under the British flag. I am old enough to remember the long agitation which led to the annexation of Fiji, which was very nearly allowed to slip through our fingers. I remember only too well the warnings transmitted to the imperial government with reference to New Guinea when we were assured by the then Secretary of State for the Colonies, Lord Derby, that there was no intention on the part of Germany to annex any part of that island. It was in this faith that the flag hoisted without authority by the Governor of Queensland, the British flag, was hauled down."

**STR WILFRID LAURIER:** "By whom?"

**MR. DEAKIN:** "By order of the British government. Immediately afterwards one-half of that very territory which we had just been assured was not going to be touched was appropriated by the German government. Then, because under pressure of public opinion that minister for the colonies was forced to take over the fraction that was left, that is cited to us years afterwards as a proof of the spirited policy pursued by the British government. What is true of this island is

true of the Solomon Islands, and the Gilbert and Ellice Islands. Whatever losses there are in the Pacific — and there have been others — have been due to neglect here. Every single gain has been due to pressure from Australia and New Zealand. Consequently, whatever credit is due for the acquisition of these islands rests on the other side of the globe and not on this. Is it, therefore, to be wondered at that a feeling has been created and still exists in Australia — an exasperated feeling — that British imperial interests in that ocean have been mishandled from the first? . . . There you have our two absolutely opposite points of view, the point of view of our part of the world and the point of view in this country, and it is only because it is necessary, as it appears to me, to make that fundamental contrast of attitude understood, that I have ventured to detain the Conference by referring to it” (*Ib.* pp. 549, 550).

Referring to the New Hebrides, which would have been entirely French but for the protest of Australia (they are now administered jointly by the United Kingdom and France), Mr. Deakin said:

“We have kept on protesting and urging action without any cessation for the last twenty-four years. Before that, there were frequent and spasmodic outbursts of complaints as we saw the islands slipping away, but for the last twenty-four years there has been systematic agitation, yet practically there has been nothing to show for it until this last agreement.

“I do not know of any series of public incidents that have sown more discord in Australia and created more discontent than those dealing with the Pacific islands. They have caught and kept the popular eye and inflamed the popular mind. I think that, after all our unfortunate experiences these years, we are entitled to expect that, in any dealings with the New Hebrides, Australia and New Zealand would have been consulted, kept in close touch with the Colonial Office, and afforded every opportunity of assisting to bring about a fair settlement” (*Ib.* p. 551).

“I have finished with that matter, Mr. Churchill. I have no desire to revive these incidents except as warnings for the future and in order to explain the feeling that exists. Lord Elgin may think that on this matter I hold strong views. I

do, but they are shared by thousands. On this matter I am certain that you cannot find a newspaper in Australia that has a word to say in defence of our treatment in relation to the New Hebrides" (*Ib.* p. 559).

This extremely important question of neighboring island-ownership was closely related to the subject of defence, and, as European nations more and more definitely established themselves in the southern seas, Australia became more and more anxious for the integrity of her own domain. Eventually in 1881<sup>1</sup> a Conference of the various Australian colonies was held at Sydney, at which after elaborate discussion it was resolved that the cost of the requisite land defence should be paid by the respective colonies, but that naval defence

"should continue to be at the exclusive charge of the imperial government, and that the strength of the Australian squadron should be increased."<sup>2</sup>

In 1882 the whole subject of imperial defence was considered by a Royal Commission under the presidency of Lord Carnarvon.<sup>3</sup>

In 1886 Admiral Tryon (acting under instructions of September 9, 1885, and April 30, 1886) carried on negotiations with the governments of the Australian colonies with a view to the increase of the Australian squadron at joint expense. No agreement was arrived at and the subject was relegated to the Colonial Conference of 1887.

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<sup>1</sup> A scheme of defence had been discussed and partially arranged in 1879 between Lieutenant-Governor Sir W. Drummond Jervois and Sir Peter Scratchley.

<sup>2</sup> See the "Proceedings of the Colonial Conference of 1887," p. 213.

<sup>3</sup> The report may be found among the papers of the "Colonial Conference of 1887," p. 295.

## CONFERENCE OF 1887

The Conference of 1887 was called at the instance of the Imperial Federation League, for the purpose of considering imperial defence, and postal and telegraphic communication. Of these, defence was the chief. In the circular despatch summoning the Conference (November 25, 1886) the Colonial Secretary (Stanhope) said:

“In the opinion of His Majesty’s government the question which is at once urgent and capable of useful consideration at the present time is that of organization for military defence.

“I should deprecate the discussion at the present time of any of the subjects falling within the range of what is known as political federation.”

In his opening speech the Prime Minister (Salisbury), referring to a *zollverein* (commercial union) as something impracticable, said:

“I will pass that by and merely point your attention to the *Kriegsverein*, which I believe is the real and most important business upon which you will be engaged, that is to say, the union for purposes of mutual defence.”

As incentive to war-union the Prime Minister added:

“The English colonies comprise some of the finest and most desirable portions of the earth’s surface. The desire for foreign and colonial possessions is increasing among the nations of Europe.”<sup>1</sup>

The Colonial Secretary (Holland), speaking in the same vein, said:

“For myself I shall not consider this Conference to fail if it does nothing more than place military and naval defence on a sound footing.”<sup>2</sup>

<sup>1</sup> “Proceedings of the Conference,” p. 6.

<sup>2</sup> *Ib.* p. 9. A detail of the proposed defences appears at p. 277 of the “Proceedings of the Conference.”

Something was done. The negotiations between the Admiralty and the Australasian colonies were completed, and an arrangement was made by which it was agreed that five cruisers and two torpedo gunboats were to be added to the Australian squadron; that these vessels should be retained "within the limits of the Australian station"; that they should be removed only "with the consent of the colonial government"; and that, of the cost involved, the colonies should pay not more than £126,000 per annum.<sup>1</sup> This was the commencement of what has been called colonial contributions to the British navy. It was an agreement for defence by so many ships for so much money. The ships were provided and the money was paid.

An arrangement was also made with Cape Colony as to the erection and cost of fortifications at Table Bay and Simon's Bay.<sup>2</sup>

No other agreement could be reached; and great differences of opinion were disclosed as to relative duty in regard to the whole subject. Mr. Hoffmeyer (whose celebrated resolution will be mentioned in a moment), for example, arguing that

"in the matter of coast defence, the first and primary duty should rest with the imperial government for this reason: that enemies from whom the colonies might suffer and would suffer on the coast would not be enemies of their own making, but would be imperial enemies, enemies made by the imperial policy, enemies perhaps made, too, in the maintenance of a policy even opposed to the general interests of the colony itself."<sup>3</sup>

The two agreements (falling somewhat short of placing "military and naval defence on a sound footing") were the only achievements of the Conference; and in his report to the

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<sup>1</sup> See the "Proceedings," p. 508, and the Appendix, p. 213.

<sup>2</sup> *Ib.* pp. 245, 425.

<sup>3</sup> *Ib.* p. 414.



Governors of the colonies, the best that the Colonial Secretary could say was the following:

“I believe the Conference has been productive of the greatest good in the opportunity for the interchange of information which it has afforded; and I trust that it will lead to a consolidation of the great military resources of the Empire for the purposes of mutual defence.”<sup>1</sup>

The proposal of Mr. Hoffmeyer at the Conference must be noticed, not that it was thought even by himself to be immediately practicable, but because it has always had attractions for many Imperialists, and because of its reappearance “with a new suit of clothes on”<sup>2</sup> at a later Conference. Mr. Hoffmeyer proposed:

“To discuss the feasibility of promoting closer union between the various parts of the British Empire by means of an imperial customs tariff to be levied independently of the duties payable under existing tariffs on goods entering the Empire from abroad, the revenue derived from such tariff to be devoted to general defence of the Empire.”<sup>3</sup>

#### CONFERENCE OF 1897

In 1893 (between the Conferences of 1887 and 1897) the Imperial Federation League was dissolved, and shaking themselves clear of the commercially minded, certain of its members reorganized as The Imperial Federation (Defence) League — with emphasis on *Defence*. Urging their views and forcing their propaganda with much zeal, they made many converts, and at the Colonial Conference of 1897 had the great satisfaction of seeing their ideas championed by Mr. Chamberlain, then Secretary of State for the Colonies and chairman of the Conference. This is the way Mr. Chamberlain put the matter:

<sup>1</sup> *Ib.* p. ix.

<sup>2</sup> As Sir Wilfrid Laurier said at the Colonial Conference of 1907; see “Proceedings,” p. 518.

<sup>3</sup> “Proceedings,” p. 463.

"This gigantic navy and the military forces of the United Kingdom are maintained, as you know, at heavy cost. I think the charge upon the exchequer is at the present time something like thirty-five millions sterling per annum, and it constitutes more than one-third of the total income of the country. Now, these fleets, and this military armament, are not maintained exclusively, or even mainly, for the benefit of the United Kingdom, or for the defence of home interests. They are still more maintained as a necessity of Empire, for the maintenance and protection of imperial trade and of imperial interests all over the world, and if you will for a moment consider the history of this country during, say, the present century, or, I would say, during the present reign, you will find that every war, great or small, in which we have been engaged, has had at the bottom a colonial interest, the interest, that is to say, either of a colony or of a great dependency like India. That is absolutely true, and is likely to be true to the end of the chapter. If we had no Empire, there is no doubt whatever that our military and our naval resources would not require to be maintained at anything like their present level" ("Proceedings," p. 7).

Turning to the colonial side of the question, Mr. Chamberlain asked what the position of the colonies would be in case of separation from the United Kingdom:

"Now let it not be supposed for a moment that I suggest as probable — I hardly like to think that it is even possible — that there should be a war between Canada, or on behalf of Canada, either with the United States of America, or with any of the other powers with which she may come into contact; but what I do say is this, that if Canada had not behind her to-day, and does not continue to have behind her this great military and naval power of Great Britain, she would have to make concessions to her neighbors, and to accept views which might be extremely distasteful to her, in order to remain permanently on good terms with them. She would not be able to, it would be impossible that she should, herself control all the details of her own destiny; she would be to a greater or less extent, in spite of the bravery of her population and the patriotism of her people, she would still be, to a great extent, a dependent country" (*Ib.* p. 8).

Australia and Cape Colony being in still greater need, why should not all the colonies contribute to the British navy?

"I shall be very glad to hear the views of the Premiers in regard to this question of any contribution which they think the colonies would be willing to make in order to establish this principle in regard to the naval defence of the Empire. I am bound to say that we are still behindhand, although a great deal has been done in recent years. As you know, the Colonial Defence Committee of experts has been sitting, and has accomplished already, with the assistance of the colonies, a very great improvement in the state of things which existed before; but I cannot say from the information at my disposal that with all the magnificent resources of the colonies their organization at present is satisfactory" (*Ib.* pp. 8, 9).

Why, too, should there not be a commencement of military coöperation — mere interchanging of regiments at first, but very soon colonial participation in "the dangers and the glories of the British army"?

"The interchangeability in the several groups (of military forces) is a matter of great importance, but how much greater it would be if there were interchangeability between the whole forces of the Empire, between the forces which you have in the several colonies and the forces of which you have seen some examples at home since you came to these shores. That is a matter which also can be arranged, and to which we shall bring at all events the utmost good-will. If you have, as Canada has at Kingston, an important military college, it may be possible for us to offer occasionally to the cadets of that college commissions in the British army. But a still more important matter which has suggested itself to my mind, and which now I desire to commend to your earnest attention, is a proposal which may be described as the interchangeability of military duties. To put it into plain English, it means this: that, for instance, a Canadian regiment should come to this country, take up its quarters for a period of time, at least twelve months, with the British army, and form, during the whole time that it is in this country, a part of the British army; and that in return a similar regiment of British troops, or a brigade of artillery or cavalry, should go to Canada and should reside and exercise with the Canadian army, and form a part of that army. The idea is that this should be chiefly for the purpose of drill and instruction, and I cannot doubt that it will be of enormous

advantage to the Canadian troops, and to the troops of the colonies, to measure themselves against the regular army, and to learn the discipline and the manœuvres which are practised on a large scale in this country.

“But my imagination goes even further. It seems to me possible that although in the first instance the idea is that such a regiment coming to this country would come solely for that purpose and would not be engaged in military operations, yet if it were their wish to share in the dangers and the glories of the British army and take their part in expeditions in which the British army may be engaged, I see no reason why these colonial troops should not, from time to time, fight side by side with their British colleagues. That, however, is a matter which, like everything else which I am putting before you, is not a recommendation which has any pressure behind it; it is merely a suggestion to be taken up by you voluntarily if it commends itself to your minds” (*Ib.* pp. 9, 10).

Upon Canada these arguments had no effect. They were much too familiar, and the answer to them much too simple. Had Mr. Chamberlain but pondered his own language he could hardly have failed to see his mistake. “If we had no Empire,” he said, “our military and our naval” expenditure would not be so great. But Mr. Chamberlain would probably admit that ownership of anything entails expense; and that of such expense the owner should not complain, for he can always easily stop it. “If *we* had no Empire!” If *we* did not *own* Canada, for instance! In days long past a British statesman might well have said, “If we had not Canada”; but since Canada has been almost completely a self-governing community, the language is absurd.

Military and naval expenditure, Mr. Chamberlain said, is not “even mainly for the benefit of the United Kingdom,” for every war “has had at the bottom a colonial interest.” If a farmer were to complain that his expenditures were not for his own benefit but for the benefit of his farm, he would speak as sensibly as Mr. Chamberlain spoke.

But Mr. Chamberlain was incorrect in his facts, for surely it is wrong to say that the Crimean war (in which, as Lord Salisbury said, "we put our money on the wrong horse") or the Chinese wars were undertaken, not for British interests but out of regard for the interests of other people. The Boer war happened after Mr. Chamberlain spoke; but were the £250,000,000 spent in the interest of any colony, or merely in the acquisition of a new one?

Mr. Chamberlain would agree that the greatness of the United Kingdom has come to her through her ownership of dependencies and colonies. She has spent much to get them; but out of them she has made many times more — she has made her present position in the world; she has made her wealth and her power.

And as colonies become less valuable — become more independent (sometimes with protective tariffs of their own) — British interest in them fails and British expenditure upon them ceases. While the United Kingdom controlled Canadian trade and formulated her fiscal policies, British regiments were quartered in her cities; but free trade (and protection afterwards) having rendered the ownership of Canada a matter of indifference, we were told that we were millstones around British necks and counselled to take care of ourselves.

Addressing Canada specially, Mr. Chamberlain told her that if she

"had not behind her . . . this great military and naval power of Great Britain, she would have to make concessions to her neighbors and to accept views which might be extremely distasteful to her in order to remain permanently on good terms with them."

That may be true; but British policy has inured us to humiliations of that sort. The "great military and naval

power" has no doubt been behind us, but so far behind that it has been of very little service to us.

Had Canadians done their own bargaining with the United States they would almost certainly have far more territory than they own to-day. They would never merely "in order to remain permanently on good terms with them" (the Americans) have presented those Americans with all the states between the Ohio and the Mississippi (Ohio, Indiana, Illinois, Michigan, and Wisconsin) together with a possibility of the acquisition of all territory between these and the Pacific (Iowa, Nebraska, Minnesota, Dakota, Wyoming, Montana, Idaho, Oregon, Washington, Missouri, Kansas, Colorado, Utah, Nevada, and part of California). We could have bought a great many concessions with Ohio, Indiana, and Illinois, for example. Perhaps with these extra provinces, we might have been strong enough to resist concessions!

Not having detailed records of this Conference of 1897, we cannot say whether the colonial Premiers pointed out some of these things to Mr. Chamberlain. Probably they did not. It would have been useless labor. Let us note, however, that if Mr. Chamberlain was permitted the honors of debate, he got very little else, save from Cape Colony, its Premier announcing that he was

"prepared to offer on behalf of the colony an unconditional contribution of the cost of a first-class battleship."

A contribution of £30,000 per annum was afterwards (1898) substituted for the battleship.

The Australasian Premiers passed the following resolution:

"That the statement of the First Lord of the Admiralty with reference to the Australian squadron is most satisfactory, and the Premiers of Australasia favor the continuance of the Australian squadron under the terms of the existing agreement" (*Ib.* p. 18).

This is all Mr. Chamberlain heard in answer to his request for the views of the Premiers

“in regard to this question of contribution . . . to the naval defence of the Empire.”

As to interchange of regiments, the record of the Conference has the following:

“The suggestion made for an occasional interchange of military units between the mother country and the colonies was generally recognized as one likely to prove useful in increasing the efficiency of the colonial forces; and the Premiers of these colonies which possess permanent forces of a purely military character expressed their intention of examining on their return what legislative or other measures might be necessary in order to give effect to it as opportunity offered” (*Ib.* p. 18).

Nothing was done.

#### CONFERENCE OF 1902 — CONTRIBUTIONS TO THE IMPERIAL NAVY

The enormous expenditure upon the Boer war and the proved inadequacy of the forces of the United Kingdom for conflict with European armies, induced a very decided alteration in Mr. Chamberlain's attitude toward the colonies. In 1897 he had said to the Conference:

“We are open to consider in the most friendly and the most favorable way any representations which may be made to us by the representatives of the self-governing colonies, having regard to the present or future relations between the different parts of the Empire, and in this respect we are in the position of those who desire rather to learn your views than to press ours upon you” (“Proceedings,” p. 4).

And he distinctly declared that nothing which he said had “any pressure behind it.” In 1902 his tone was captious and complaining, if not petulant and peremptory: .

“As regards imperial defence, I propose to lay before you, for your information, a paper which will show the comparative amount of the ordinary naval and military expenditure of the United Kingdom and of the different self-governing colonies. You will find that in the case of the United Kingdom the cost of our armaments has enormously increased since 1897. That increase is not entirely due to our initiative, but is forced upon us by the action of other powers who have made great advances especially in connection with the navy, which we have found it to be our duty and necessity to equal. But the net result is extraordinary. At the present moment the estimates for the present year for naval and military expenditure in the United Kingdom — not including the extraordinary war expenses, but the normal estimates — involve an expenditure per head of the population of the United Kingdom of 29s. 3d. — 29s. 3d per head per annum.”

SIR WILFRID LAURIER: “Are the military and naval together?”

MR. CHAMBERLAIN: “Military and naval together. In Canada the same items involve an expenditure of only 2s. per head of the population, about one-fifteenth of that incurred by the United Kingdom. In New South Wales — I have not the figures for the commonwealth as a whole, but I am giving those as illustrations — and I find that in New South Wales the expenditure is 3s. 5d.; in Victoria, 3s. 3d.; in New Zealand, 3s. 4d.; and in the Cape and Natal, I think it is between 2s. and 3s. Now, no one, I think, will pretend that this is a fair distribution of the burdens of Empire. No one will believe that the United Kingdom can, for all time, make this inordinate sacrifice.

“And I would beg of you in this relation to bear in mind that you are not asked — your people are not asked — to put upon their own shoulders any burden for the exclusive advantage of the mother country. On the contrary, if the United Kingdom stood alone as a mere speck in the northern sea, it is certain that its expenditure for these purposes of defence might be immensely curtailed. It is owing to its duties and obligations to its colonies throughout the Empire; and it is owing to its trade with those colonies, a trade in which of course they are equally interested with ourselves, that the necessity has been cast upon us to make these enormous preparations. And I think, therefore, you will agree with me that it is not unreasonable for us to call your serious attention to a state of things which cannot



be permanent. I hope that we are not likely to make upon you any demand which would seem to you to be excessive. We know perfectly well your difficulties, as you probably are acquainted with ours. Those difficulties are partly political, partly, principally probably, fiscal difficulties. The disproportion to which I have called your attention, cannot, under any circumstances, be immediately remedied, but I think that something may be done — I hope that something will be done — to recognize more effectually than has hitherto been done the obligation of all to contribute to the common weal" ("Proceedings," pp. 4, 5).

In a memorandum supplied by the First Lord of the Admiralty is the following:

"In reply to an inquiry I undertook to endeavor to form an estimate of the naval obligations which would be forced upon the British Dominions beyond the seas if they were nations with a separate existence and not, as now, partner-nations of the British Empire, and it was suggested that the proper comparison would be between the commonwealth of Australia and New Zealand or the Dominion of Canada and some state with a population of about the same size.

"I pointed out that if such a basis of comparison were chosen, the annual naval expenditure of Holland is £1,400,000, and that of Argentina £920,000, not to mention a past capital expenditure of several millions which must have been incurred in the creation of the fleets and for the proper equipment of dock-yards and naval bases. These countries were only taken because their populations roughly correspond in size with those of Australasia and Canada, and not because they are in other respects in any way comparable. Indeed, I submitted that this was not an adequate or satisfactory comparison. Each great group of Dominions beyond the seas would, so it seemed to me, have to face the naval position in which it found itself, and the governing conditions of that position would be the political and geographical environment of the group. As a matter of fact, each of these groups would find itself within the orbit of a great naval power. The Dominion of Canada would have to frame its naval policy with a view to the navy of the United States. The commonwealth of Australia and New Zealand would be forced to remember that France in New Caledonia, and Germany in New Guinea are near neighbors.

Cape Colony and Natal would constantly find themselves reminded of the fact that France is their neighbor in the Indian Ocean, in Madagascar, and that the greater part of Western South Africa is German" (*Ib.* p. 19).

This English way of regarding Canadian affairs would be incredible were it not so persistently exemplified. There is probably not a single man in Canada who, if his country had "a separate existence," would dream of forming his "naval policy with a view to the navy of the United States." Nothing could be more insane. Possibly some Canadians might advocate establishment of a land force with a view to the United States army — there would be very few even of these — but to build up navies against one another, when almost all the fighting would be done on land, would be idiotic. The First, and all the other Lords of the Admiralty, might see, for it is clear enough, that if Canada had "a separate existence," her reasons for a navy would not be increased, but would be reduced by the removal of all chances of war through association with the United Kingdom.

Mr. Chamberlain's influence during the five years between the Conferences of 1897 and 1902 had had its effect upon every colony except Canada; and his efforts were now rewarded by contributions as follows:

Cape Colony . . . . .	£50,000 <sup>1</sup>
Australia . . . . .	200,000 <sup>2</sup>
New Zealand . . . . .	40,000 <sup>2</sup>
Natal . . . . .	35,000 <sup>1</sup>
Newfoundland . . . . .	3,000 <sup>2</sup>

Notwithstanding these contributions the First Lord of the Admiralty contended that the British taxpayer was still paying more than his share; and the following table was produced to the Conference:

<sup>1</sup> Unconditional offer.

<sup>2</sup> Under agreement as to application.

	Population (white)	Naval contribution per caput per annum	
		s.	d.
United Kingdom	41,454,621	15	2
Cape Colony	538,000	1	10½
Commonwealth of Australia	3,765,805	1	0½
Dominion of Canada	5,338,883	Nil	
Natal	64,951	10	9½
Newfoundland	210,000	0	3½
New Zealand	772,719	1	0½

The First Lord argued that this was unfair; and with characteristic insularity added:

“The danger to the Empire which I fear is that Canada, South Africa, and Australia, being in fact continents, should become too continental, and too little maritime in their aspirations and ideas.”

He deemed it of great importance, he said:

“that they should cultivate the maritime spirit; that their population should become maritime as ours are.”

The impossibility of making Manitoba people “cultivate the maritime spirit” rather than their farms was well illustrated during the visit to the west, a few years ago, of representatives of the Navy League. The railways, as usual, were short of rolling-stock; the wheat was choking the elevators; and when applied to for funds for battleships, a farmer replied: “Damn the battleships; it’s box-cars we want.” Possibly the First Lord would describe that reply as somewhat “too continental”; but he must remember that it is very difficult in one lecture to give to an elephant all the special characteristics of an amphibian.

#### CONFERENCE OF 1902 — IMPERIAL MILITARY DEFENCE

The indefinite haphazard sort of relationship that exists between the various parts of the Empire is nowhere better

exemplified than in regard to the subject of defence. One would have imagined that if there was nothing in any empire constitution providing for respective duty in case of war, there would at all events be some agreement or understanding with reference to mutual support. But there is none. The following is an extract from a memorandum presented at the Conference of 1902 by the War Office:

"Prior to the outbreak of the war in South Africa, so far as any general scheme for the defence of the Empire as a whole had been considered, it was assumed that the military responsibilities of our great self-governing colonies were limited to local defence, and that the entire burden of furnishing reinforcements to any portion of the Empire against which a hostile attack in force might be directed must fall on the regular army. There may possibly have been some pious hope that in time of need the colonies might rally to the mother country, but no definite arrangements were made, nor were inquiries even on foot as to whether such aid might be expected, and if so, in what strength. Indeed, the necessity for it was by no means realized and its reliability was doubted.

"The experience of the South African war has, however, established two important facts:

"(a) That the regular army, as organized before the war, was by itself inadequate in strength to the military needs of the Empire.

"(b) That the self-governing colonies are willing and able to assist in making good some part of the deficiency in military strength which the war has disclosed.

"(d) Under the existing conditions of the political constitution of the Empire, there is no central authority vested in the imperial government, which is empowered to draw up in London, and enforce throughout the Empire, a definite uniform organization for imperial service. We can only make suggestions to the self-governing colonies and rely on the good-will and loyalty of their various ministries to give effect to our suggestions."<sup>1</sup>

At this Conference the Admiralty succeeded in obtaining more complete control of the Australasian squadron, Aus-

<sup>1</sup> "Colonial Conference, 1902," pp. 47, 48.

tralia and New Zealand agreeing that although the base of the force should be "the ports of Australia and New Zealand," yet that its "sphere of operations" might be extended to the waters of "the China and East India Stations" — in other words, as far west as the coast of Africa, as far northwest as the Persian Gulf, and as far north as Siberia. It was not probable, however, that Australia would very long be satisfied with an arrangement of that sort.

Without any previous agreement, and without any legal or constitutional obligation, Canada had contributed to the Boer war 8400 men,<sup>1</sup> and \$3,000,000.<sup>2</sup> But Mr. Chamberlain was not satisfied. He asserted that the colonies had not done their share,<sup>3</sup> and he wanted them to make some definite and adequate arrangement for the future. At this Conference of 1902 he told the colonies (as we have seen) that it was

"inconsistent with their dignity as nations that they should leave the mother country to bear the whole, or almost the whole, of the expense";

and the Colonial Defence Committee presented a memorandum in which they said:

"For these reasons the Colonial Defence Committee earnestly hope that the great self-governing colonies may be able to give some assurance as to the strength of the contingents which they should be able to place at the disposal of His Majesty's government for extra-colonial service in a war with a European power."

Here is again the peculiarly English view of things; Mr. Chamberlain says that it is inconsistent with the dignity of "nations" *not* to hand over their men and money to be dis-

<sup>1</sup> Including garrison sent to Halifax to relieve the imperial garrison.

<sup>2</sup> See "Proceedings of Conference of 1902," p. 42.

<sup>3</sup> He presented a statement showing that if Canada had contributed as liberally as the United Kingdom to the war, she should have sent over 40,000 men instead of 8400, and over \$150,000,000 instead of \$3,013,200.

posed of by another nation. His view is that British statesmen should make such wars as they please; settle without war such quarrels as they please; and that the colonies, recognizing "the obligation of all to contribute to the common weal," should cheerfully and without question or hesitation send their men and money whenever and wherever demanded. Canada, on the other hand, believes that compliance with such a demand would be inconsistent with her dignity as a self-governing community. The answer of Canada and Australia to the committee's proposal was as follows:

"The representatives of Canada and Australia were of opinion that the best course to pursue was to endeavor to raise the standard of training for the general body of their forces, to organize the departmental services and equipment required for the mobilization of a field force, *leaving it to the colony, when the need arose, to determine how and to what extent it should render assistance.*"

It is difficult to imagine what else Mr. Chamberlain could have properly expected from "nations." The reply of Cape Colony and Natal was as follows:

"The enormous preponderance of the native population in the colonies of the Cape and Natal render it impossible for us to agree to any proposal involving the obligation to furnish a military contingent in the event of a war in which the imperial government may be involved in any other part of the Empire."<sup>1</sup>

In order that the colonies might have contingents ready for foreign service when called for, the Colonial Defence Committee proposed that the colonies should organize special forces under obligation to go abroad, and offered to pay a share of the expense involved.<sup>2</sup> Sir Frederick Borden on behalf of Canada objected. He said:

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<sup>1</sup> "Conference Report," p. 20.

<sup>2</sup> See *Toronto Globe*, October 24, 1902.

"The suggestion which was made that there should be a special force known as the imperial force for service abroad is one I cannot subscribe to, because I believe in the first place it would have a derogatory effect on the militia itself. I am quite certain, from what I know of the militia of Canada, that to have a special force receiving special favors, specially named, specially drilled and trained, would have an unfavorable effect on the militia at large.

"It seems to me that I do not think it necessary that a set of men shall be labelled as being set apart for any particular service, but that our militia should be made absolutely effective, so that when the moment arrives, we can take part and assist the imperial army by a voluntary enlistment."<sup>1</sup>

The answer of Canada to all these proposals was put in precise form and presented to the Conference. It is a reiteration of the principle of colonial self-government — a principle that Mr. Chamberlain is fond of talking about and even commending, but has never been able to understand. He has, in recent years, been its most strenuous opponent. Canada's reply was in these words:

"The Canadian ministers regret that they have been unable to assent to the suggestions made by Lord Selborne respecting the navy and by Mr. St. John Brodrick respecting the army. The ministers desire to point out that their objections arise, not so much from the expense involved, as from a belief that the acceptance of the proposals would entail an important departure from the principle of colonial self-government. Canada values highly the measure of local independence which has been granted it from time to time by the imperial authorities, and which has been so productive of beneficial results, both as respects the material progress of the country and the strengthening of the ties that bind it to the motherland. But while, for these reasons, the Canadian ministers are obliged to withhold their assent to the propositions of the Admiralty and the War Office, they fully appreciate the duty of the Dominion, as it advances in population and wealth, to make more liberal outlay for those necessary preparations of self-defence which every country has to assume and bear.

<sup>1</sup> Sir Frederick's remarks were quoted by himself at the Conference of 1907, and, in that way, are known. (See p. 115.)

"That the taxpayers of the United Kingdom should desire to be relieved of some of the burdens which they bear in connection with military expenditure is quite reasonable. Canada, in the development of its own militia system, will be found ready to respond to that desire by taking upon itself some of the services in the Dominion which have hitherto been borne by the imperial government. What has already been done by Canada must give assurance of the disposition of the Canadian people to recognize their proper obligations.

"At present, Canadian expenditures for defence services are confined to the military side. The Canadian government are prepared to consider the naval side of defence as well. On the sea-coasts of Canada there is a large number of men admirably qualified to form a Naval Reserve, and it is hoped that at an early day a system may be devised which will lead to the training of these men and to the making of their services available for defence in time of need.

"In conclusion, the ministers repeat that, while the Canadian government are obliged to dissent from the measure proposed, they fully appreciate the obligation of the Dominion to make expenditure for the purposes of defence in proportion to the increasing population and wealth of the country. They are willing that these expenditures shall be so directed as to relieve the taxpayer of the mother country from some of the burdens which he now bears; and they have the strongest desire to carry out their defence schemes in coöperation with the imperial authorities, and under the advice of experienced imperial officers, so far as this is consistent with the principle of local self-government, which has proved so great a factor in the promotion of imperial unity."

It is very extraordinary how impossible it is to get many people to grasp the full significance of such a simple statement as this. We must not blame Mr. Chamberlain too much for his failure to appreciate the attitude assumed, for, of all the colonies, Canada is the only one that has rigidly adhered to it; and there are not a few Canadians who think that the principle of self-government can be carried too far.

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## BETWEEN THE CONFERENCES OF 1902 AND 1907

Australia was not very well satisfied with the new naval arrangements made for her at the Conference of 1902. She was not convinced by the assertion of the Admiralty that in discussing naval operations "the word 'defence' would be misleading," and by the argument that its omission is justified, "because the primary object of the British navy is not to defend anything, but to attack the fleets of the enemy and, by defeating them, to afford protection to British Dominions, shipping, and commerce" ("Proceedings," p. 55).

Any other view was condemned by the Admiralty as "heretical," for

"the real problem which the Empire has to face in the case of a naval war is simply and absolutely to find out where the ships of the enemy are, to concentrate the greatest possible force where those ships are, and to destroy those ships. . . . It follows from this that there can be no localization of naval forces in the strict sense of the word" (*Ib.* p. 15).

To many persons in Australia that might be true enough, but they could not quiet the thought that while the British navy was engaged in finding out "where the ships of the enemy are" and in looking for them in various wrong places (as Nelson did), a few of them might stray over to Australia. Sending every warship into the Arabian Sea or the Sea of Japan might be the best of strategy, but would England send the Channel Fleet there? <sup>1</sup>

<sup>1</sup> In the hand-book of the Navy League (December 2, 1902) the Editor gives an extract from the report of the committee on naval manœuvres as follows: "There should always be an effective reserve squadron, absolutely confined to home waters, sufficient to hold the channel and protect the coasts and commerce of the United Kingdom, in addition to the coast defence ships which would be required for active local defence." The Editor adds: "The experience of the Spanish-American war has shown that public opinion will always clamor for a home squadron. We had a squadron in the channel all through the Trafalgar campaign."

In 1903 Senator Matheson of Australia addressed the Royal Colonial Institute in defence of the Australian view. He quoted various authorities, amongst others that of Sir George Clarke:

“Small expeditions directed, not to effect territorial conquests, but to destroy national resources, may, nevertheless, as in the past, evade a superior navy. Such expeditions are of the nature of raids.”

Referring to the naval brigades that in earlier days the Australian colonies had organized, the Senator said:

“The blighting influence of direct Admiralty control on local aspirations is beyond dispute, and its clearest evidence can be found in the fact that in New South Wales alone of all the states, though provided with one of the most magnificent harbors in the world, with a population crazy on yachting and boating, and with the headquarters of both British and Australian squadrons, the local naval forces have been pronounced a farce. I quote from Sir William Lyne, till recently Premier of New South Wales, and now Federal Minister for Home Affairs, who, speaking of the naval brigade of his own state in Parliament, said as follows:

“‘I do not know whether the members of these forces were ever on the water, there is certainly no provision for a ship. It is ridiculous to have so-called Naval Volunteer Artillery and Naval Brigades which are practically land forces’ — and so on. Could one find a more striking commentary on the present position, or a greater justification for Australia’s dissatisfaction at the result of her annual expenditure of £106,000? One million three hundred and seventy-eight thousand pounds spent to date (1902) and not a single trained Australian sailor in return.”

The Senator advocated the Canadian idea — the commencement of an Australian fleet:

“Twelve years’ experience of the system under which the present subsidy is spent has satisfied us that the result of local control could not at any rate be worse, and might possibly be better.”

The discussion which followed the lecture is interesting and instructive.<sup>1</sup>

CONFERENCE OF 1907 — NAVAL CONTRIBUTIONS

The Colonial Conference of 1907 brought Canada's justification upon all points relating to naval and military defence. In the opening speech the Prime Minister (Campbell-Bannerman) made only one remark about it, but he covered almost the whole ground:

"On this I may say that I think the views sometimes taken of the proper relations of the colonies to the mother country with respect to expenditure on armaments have been, of late, somewhat modified. *We do not meet you to-day as claimants for money*, although we cordially recognize the spirit in which contributions have been made in the past, and will, no doubt, be made in the future. It is, of course, possible to overestimate the importance of the requirements of the oversea Dominions as a factor in our expenditure; but however this may be, *the cost of naval defence and the responsibility for the conduct of foreign affairs hang together. . . . You in common with us are representatives of self-governing communities*" ("Proceedings," p. 5).

That is precisely the Canadian view. The First Lord of the Admiralty (Lord Tweedmouth) said:

"I know that you gave to the government and to the Admiralty with a free and unstinting hand, the help that you thought you could manage to give. Gentlemen, I have only one reservation to make, and in making it I ask that, as we have proved ourselves successful in the past, you should put your trust in us now. The only reservation that the Admiralty desire to make is, that they claim to have the charge of the strategical questions which are necessarily involved in naval defence, to hold the command of the naval forces of the country, and to arrange the distribution of ships in the best possible manner to resist attacks and to defend the Empire at large, whether it be our own islands or the Dominions beyond

<sup>1</sup> See the *Journal of the Institute*, p. 297.

the seas. . . . There is one sea, there is one Empire, and there is one navy, and I want to claim in the first place your help, and in the second place authority for the Admiralty to manage this great service without restraint" (*Ib.* p. 129).

In other words, the Admiralty was of opinion that contributions under arrangements for local defence were undesirable. Lord Tweedmouth added that the government was

"ready to consider a modification of the existing arrangements to meet the views of the various colonies. In the opinion of the government, while the distribution of the fleet must be determined by strategical requirements of which the Admiralty are the judge, it would be of great assistance if the colonial governments would *undertake to provide for local service* in the imperial squadrons the smaller vessels that are *useful for defence against possible raids* or for coöperation with a squadron; and also to equip and maintain docks and fitting establishments which can be used by His Majesty's ships. It will further be of much assistance if coaling facilities are provided, and arrangements can be made for a supply of coal and naval stores which otherwise would have to be sent out specially or purchased locally.

"I understand that in Australia particularly, and in South Africa, *it is desired to start some naval service of your own*. Perhaps I might suggest that if the provision of the smaller craft which are necessarily incident to the work of a great fleet of modern battleships could be made locally, it would be a very great help to the general work of the navy. You cannot take the small craft, such as torpedo boats and submarines, across the ocean; and for warships to arrive in South Africa, or in Australia or in New Zealand or in Canada, and find ready to their hand well-trained men in good vessels of this kind would be an enormous advantage to them. It would be an enormous advantage to find ready to their hand, men well trained, ready to take a part in the work of the fleet. There is, I think, the further advantage in these small flotillas, that they will be *an admirable means of coast defence; that you will be able by the use of them to avoid practically all danger from any sudden raid which might be made by a cruising squadron*. What I should like to point out is that, above all things in this work, the submarine is probably the most important and the most effective weapon.

It is the weapon with which you can meet a fleet attacking during the day or individual ships attacking by day. . . . I think perhaps it is impossible suddenly to make a change. *I would suggest that a beginning should be made, and that probably the best way to start would be to allocate to local purposes certain portions of the subsidies already given*" (*Ib.* pp. 130, 131).

Lord Tweedmouth in this way admitted the correctness of Australia's contention as to raids and local defence. Mr. Deakin (Australia) said:

"Australia's responsibility [for naval defence] is now fixed on a monetary standard; and we submit that this is not the most acceptable standard for Australia, nor is it likely to further the objects that we have, or the objects that you have, in maintaining the present contribution" (*Ib.* p. 132).

Sir Joseph Ward (New Zealand) was more reserved. Out of a small budget, he said:

"we should hesitate to impose upon ourselves the burden of the construction of ships of war, or of any great liabilities connected with the maintenance of ships of war, or any great financial responsibilities other than we actually commit ourselves to in a defined agreement" (*Ib.* p. 135).

The proposal of the Admiralty, he said, for a change from a "money basis" should be carefully considered. He did not want

"to raise questions which might be looked upon as troublesome, but we do fear some of the eastern countries, whose teeming millions, so close to Australia and New Zealand as they are, under an educational process in the years to come, may find the attractions of our country sufficient to induce them to give us some trouble" (*Ib.* p. 137).

Dr. Smartt (Cape Colony) said:

"I also fully agree, and am perfectly certain that the people of the Cape will agree, in the necessity of assisting the Admiralty, that the outlying portions of the Empire should pro-

vide small craft, such as submarines and torpedo-boats, not alone for the defence of our shores, but to be joined on to any squadron sent from Great Britain in periods of great emergency, it being a great difficulty, or almost impossible, to send torpedo-craft many thousands of miles to sea. As the Admiralty say they would welcome a departure of that sort, I think the people at the Cape, knowing that they were really fundamentally assisting in building up the navy, would, when times improve, be prepared to increase their contribution; and I also presume that would be the position of Natal" (*Ib.* p. 142).

Sir Robert Bond (Newfoundland) said:

"In 1902 I entered into an agreement with the Admiralty on behalf of my colony in the matter of the establishment of a Naval Reserve, which should be liable for service, if found to be necessary, beyond the limits of the colony and in any part of the Empire. Up to the present time it has been a very marked success indeed. On the roll there are now some five hundred and ninety men who have distinguished themselves in His Majesty's service, according to the reports of the commodores upon that station. Any large contribution that the colony may give in the future must be in the direction of the service of such men" (*Ib.* p. 143).

Mr. Moore (Natal) said:

"But I do trust also that the Admiralty will meet us in getting that contribution made more in the direction which I have tried to indicate than by simply a cold lump sum, voted on our estimates, for which we have no actual evidence as directly concerning the people we represent" (*Ib.* p. 146).

General Botha (Transvaal) said:

"I think that at present we are so constituted in the Transvaal that we shall find it difficult to make a contribution to the navy by way of a money payment."

On a subsequent day, after private correspondence with the various Prime Ministers, Lord Tweedmouth again addressed the Conference:

"As I understand, Australia puts forward a proposal that the agreement of 1902 should be ended, and that *Australia should*

*start something in the way of a local defence force.* I do not know how far New Zealand concurs in that suggestion. Sir Joseph Ward asked for some information on the subject, and he had some talk at the Admiralty about it. He asked that some information might be given to him with regard to the cost of such a local defence, which in effect was to be founded on the establishment of a force of submarines. I do not know what is Sir Joseph's view, but I think it is rather important I should know the exact position he takes up if he adopts the idea of the possible establishment of a submarine service" (*Ib.* p. 469).

"Then comes the question of South Africa. There, again, I believe the idea of submarines is not altogether opposed to the opinion of the South African representatives, and I believe that the establishment of a flotilla of submarines by degrees would be favorably considered, at any rate in Cape Colony; I do not know what Mr. Moore would say with regard to Natal. As I understand, *the South African colonies as a whole would like to have some definite force of their own*, either a submarine flotilla, or help with regard to their naval volunteers at Cape Town, Port Elizabeth, and in Natal. Again we should be very glad to give some help with regard to that" (*Ib.* pp. 469, 470).

Mr. Deakin (Australia) said:

"In conceding perfect freedom, notwithstanding the existence of an obligation which has yet several years to run, you have shown in every possible manner your desire to keep in close accord with the feelings of the outer Dominions. In Australia, for reasons which have already been put on record in the despatch which I had the honor of addressing to the Admiralty about two years ago, *the existing contribution has not proved generally popular.* It was passed because it was felt that some distinct recognition of our responsibility for the defence of our own country and of the Empire of which it is a part was necessary, and though it did not take the form which commended itself most to the very large minority, possibly even a majority, of the electors, we accepted that mode of coöperation until some better presented itself. *Further consideration has convinced the public that the present agreement is not satisfactory either to the Admiralty, the political or professional Lords of the Admiralty, or to the Parliament of the commonwealth*" (*Ib.* p. 473).

"The Committee of Imperial Defence, after giving this question full consideration, have decided that a regular attacking force is not to be anticipated in our Antipodean situation under any circumstances that it is necessary to directly provide for in advance. *They look forward to the possibilities of a raid*, consisting in all likelihood of some four fast half-armored or partly armored cruisers, carrying forces of from five hundred to, at the outside, one thousand men. Even an expedition of those small dimensions, calling for a very considerable provision in the way of fuel and other arrangements, would make only a transitory dash for our ports and shipping, rather than a series of prolonged attacks. But whatever the nature of the assault is to be, its possibility leaves the large population of our seaboard states with a sense of insecurity, emphasized by the probability of the withdrawal of the squadron some thousands of miles away to deal with the expected enemy there. Consequently the demand for some harbor and coast defence has been pressed upon the minds of the people in general, and has been lately several times considered by Parliament. *It is thought that while it may be the best possible naval strategy to withdraw the squadron to remote portions of the seas surrounding Australia, the contingency of our being raided, even by a few cruisers, and of our commerce being driven into the harbors or destroyed or enclosed in the harbors, is not one that a community ought to contemplate unmoved.* Hence our desire for the local protection to which you have already alluded. Our proposal to replace the existing agreement by the establishment of a force in Australian waters is not due to motives of economy. On the contrary, although it will involve a greater expenditure upon maritime defence than we have ever undertaken, I believe that those proposals will be willingly accepted by Parliament" (*Ib.* p. 474).

"For our part, Lord Tweedmouth, your overture will be made known in the commonwealth. Your words of counsel and approval will be very highly esteemed. *We recognize this as a further step in the exercise of our self-governing powers with which are properly attached the responsibilities which can never be dissociated from them*" (*Ib.* p. 475).

But it took Australia a good many years to see that point, even with the help of Canada's example before her. Dr. Smartt (Cape Colony) said:



"Further, I take it that the proposition the Admiralty make is that they would *encourage the spirit of local defence* and local assistance for naval purposes, and that the best direction in which that could take effect would be either in the direction of submarines, or I suppose the Admiralty would also be prepared to consider the question of destroyers."

LORD TWEEDMOUTH. "Certainly" (*Ib.* p. 479).

Mr. Brodeur pardonably reminded the Conference of Canada's position:

"There was a discussion in previous years to the effect that we should contribute something directly to the British navy. I may say with regard to that, there is only one mind in Canada on that question, and if it was necessary, I should be able to quote the remarks made lately in an article published by Sir Charles Tupper, who is certainly one of the men best qualified to speak in Canada upon the question. I think, perhaps, I might mention what he said in regard to that. He said: 'It is known that from the outset I have felt the interests of Canada and the true interests of the Empire to be opposed to the demand for colonial contributions to the imperial navy,' and 'I maintain that Canada has discharged that duty in the manner most conducive to imperial interests.' So it shows that both sides of politics in Canada agree with the policy which has been going on for some years there. He adds, also, in that article, that 'Canada protects her fisheries by her own cruisers, and when the imperial government expressed a wish to be relieved of the expense of maintaining the strategic points at the harbors of Halifax and Esquimalt, the Canadian government at once relieved them of that large expenditure, amounting to £185,000 per annum.' Negotiations are now going on for taking over the naval stations there. I do not know exactly what will be the amount by which the Admiralty will be relieved, but I think it is a somewhat large amount.

"Since the matter has been brought before this Conference, I may say that Parliament has voted a large sum of money for the purpose of purchasing another cruiser and putting that cruiser on the Pacific coast for the protection of our fisheries" (*Ib.* p. 481).

The Canadian policy, based upon the great principle of self-government, had hardly been thus unanimously accepted

before Dr. Smartt (Cape Colony) moved a resolution in derogation of it:

“That this Conference, recognizing the vast importance of the services rendered by the navy to the defence of the Empire and the protection of its trade, and the paramount importance of continuing to maintain the navy in the highest possible state of efficiency, considers it to be the duty of the Dominions beyond the seas to make such contribution toward the upkeep of the navy as may be determined by their local legislatures — the contribution to take the form of a grant of money, the establishment of local naval defence, or such other services, in such manner as may be decided upon, *after consultation with the Admiralty and as would best accord with their varying circumstances*” (*Ib.* p. 541).

Not having a sufficiently firm grip of the Canadian idea of self-government, Dr. Smartt said:

“I do not think anybody can take exception to the resolution, because it distinctly states that it is subject to the votes of the individual legislatures; and that though the money will only be spent after consultation with the Admiralty, it does not in any way take away from the individual colony *its rights to be heard*, and practically to decide the best manner in which that money can be spent” (*Ib.* p. 541).

Canada’s “rights to be heard” as to the manner of spending her own money are not the sort of rights she asserts. To her, self-government means something more than spending her money “after consultation” with somebody. Moreover, as Sir Wilfrid Laurier said, Canada was not willing to commit herself to a “general claim,” and for that reason said he would vote against the resolution. He stood alone in opposition to it. But that was enough. It was withdrawn. The colonies were left free to spend their own money as they pleased, without the necessity of consultation with anybody. Sir Wilfrid never swerved from the great principle, which on the first day of the Conference he formulated in these words:

"But upon one thing we are all agreed, and I believe that if we can keep this in view, we can never go astray; that is to say, that if the basis of the union which now binds the British Empire remains as it is now, a proper and always permanent recognition of the principle that every community knows best what does for itself, then we cannot go wrong, and our deliberations must be fruitful. This is the spirit, at all events for my part, in which I approach the great subjects we have to discuss" (*Ib.* p. 7).

#### CONFERENCE OF 1907 — MILITARY DEFENCE

The position assumed by Canada and Australia at the Conference of 1902 (each colony to determine for itself what it should do "when the need arose"), Sir Wilfrid Laurier's House of Commons speech (declining on behalf of Canada "to enter into the vortex"), and Sir Frederick Borden's refusal to organize a special force for foreign service — all received support at the Conference of 1907. For example, Sir Joseph Ward (New Zealand) said:

"Our country is very anxious and willing to assist the old land in the event of trouble arising, to do so voluntarily by men or by money, and I think always would be ready to do its share in fighting for the defence of the motherland in any portion of the world. *We want to keep clear of the possibility of being drawn into what one might term continental trouble with England itself.* We want to have a distinct line of demarcation drawn in that respect between the responsibility we accept of our own free will and the responsibility that may be imposed upon us without our having had an opportunity of conference or discussion with regard to it" ("Proceedings," p. 32).

Sir Frederick Borden (Canada) said:

"It should be pointed out at once that so far as the Dominions beyond the seas are concerned, at any rate so far as Canada is concerned, we have no authority under our militia law to do anything beyond expend money and make preparations for the defence of Canada itself. We are absolutely limited in words to that. We cannot call our militia out for active service for any purpose beyond the defence of Canada. Although Canada

took part in the troubles in South Africa, it was done by a force which volunteered specially for the purpose and made a special contract for that purpose. I do not see very well how any responsibility could be undertaken to supply any force for any other purpose without an amendment in the law. Further, there is a provision within the law of Canada that if it is desirable to contribute a force to imperial defence abroad, Parliament shall be called together; *the idea being that each case shall be dealt with when it arises*" (*Ib.* p. 99).

Sir Joseph Ward, speaking again, said:

"I am not going to take up the time of the Conference at any great length. I want to say that the aspect upon one point put forward by the Minister of Defence of the Dominion of Canada, as to the powers of his country to incur responsibilities outside of his own Dominion, apply with equal force to New Zealand. We are responsible for the country. Our people in the past have shown their readiness, and will do so upon every occasion in the future, I have no doubt whatever, to adopt flexible conditions to meet extraordinary circumstances, should they arise" (*Ib.* p. 108).

Dr. Smartt (Cape Colony) proposed the organization of special forces for foreign service:

"A point upon which I am extremely anxious to hear the opinion of my friend General Botha is as to whether we should not disband and reënroll our permanent forces on the understanding that they would be under obligations not alone to serve anywhere in South Africa, but, in an emergency and with the consent of the governments concerned, anywhere the Empire might require. I believe the feeling of the people of Cape Colony, and I hope the feeling of the general population in South Africa, will be favorable to such a proposition; and I think if that principle were accepted by the other colonies, it would be the first nucleus of a real imperial army. So far as our permanent forces are concerned (I speak more of the Cape Police and the C.M.R.), I am perfectly certain that practically all of them would be prepared to be reënrolled upon that basis; that is to say, that they would be liable to be called upon for service in any part of the world where they might be required" (*Ib.* p. 112).

Curiously enough Mr. Haldane (Secretary of State for War) opposed this proposal:

“Dr. Smartt has raised a very important point as to whether it would not be possible for each of the self-governing Dominions of the Crown to raise a special contingent, as I may call it, for service in the defence of the Empire. That would practically put that contingent into the first line, leaving the second line to be organized out of all the local forces. Well, of course one sees a great many problems that may arise at once as regards that, although it would be a most valuable thing if it could be carried out. One sees the difficulty — *to whom would that force be responsible? Who would have power to call it out on the outbreak of war? and so on?* Would it be a volunteer force or would it be a force which undertook the same kind of responsibility as the first line itself? namely, to obey the directions of the commander-in-chief, whoever he may be, who was nominated to the supreme command of the war? Those are not insuperable difficulties by any means, and I merely mention them to show that that is probably a point upon which this Conference cannot come to a detailed or definite conclusion without going into matters” (*Ib.* p. 114).

Sir Frederick Borden said:

“I would like to add a word. This very question was brought up at the Conference five years ago and discussed thoroughly and disposed of, for that time at least. I, perhaps, cannot put the matter better than I put it then. I will read what I said then.” (He read the quotation given *ante*, p. 192.)

*The Imperial Defence Committee.* — Not being quite aware what the Imperial Defence Committee really was, Mr. Deakin (Australia) moved:

“That it is desirable that the colonies should be represented on the Imperial Council of Defence, and that the colonies be authorized to refer to that Council for advice on any local questions in regard to which any expert opinion or assistance is deemed necessary.”

It was explained to Mr. Deakin by the chairman (Lord Elgin) that

"the Committee of Imperial Defence is a body which consists of one member, the Prime Minister, and the other members are summoned as occasion requires."

Mr. Haldane said:

"One is very familiar with the composition of the Committee of Imperial Defence, which is a skeleton or nucleus body. I always attend it, but I am not a standing member of it. It has no fixed composition, but consists merely of the people who are summoned, and, of course, if any question arose affecting any particular colony, its representative would attend. The Prime Minister is really the mainspring of the committee, and he summons it as he wants it" (*Ib.* p. 121).

And the Prime Minister sent the following memorandum:

"The Prime Minister considers that it might be with advantage made clear to the representatives of the colonies at the coming Conference that the Committee of Imperial Defence is intended to provide the means of discussing questions of a general or local character relating to defence. It should, therefore, be open to the government of any self-governing colony to submit these questions through the Colonial Office and to obtain such advice as the committee is able to give. If so desired, any representative of a colony which may wish for advice may be summoned to attend as a member of the committee during the discussion on the question raised" (*Ib.* p. 83).

*The General Staff.* — Referring to Count Von Moltke's organization of the German armies, Mr. Haldane said:

"That he was able to do this, was due to the fact that the organization and business administration of the army in peace was kept entirely distinct from the service which consisted in the study of war problems and in the higher training of the staff and of the troops. That was the principle recommended by the Esher Committee, and it culminated in the provision of a brain for the army in the shape of a General Staff. That General Staff we have been at work on for a long time past in endeavoring to get together. The task was not as difficult as it seemed at first, because the effect of the war was to bring to the front a number of young officers who had shown remarkable capacity and who constituted the nucleus of a serious and

thoughtful military school. They were got together under the Esher reorganization, and virtually there has been a General Staff in existence for some time. But it was not until last September that it received formal and complete shape in the Army Order of that month. The General Staff is now a *de jure* body; it has been a *de facto* existing body for some time past" (*Ib.* p. 95).

"The practical point that we have to put before you is the desirability of a certain broad plan of military organization for the Empire. We know that you have all got your own difficulties and the idiosyncrasies of your own people to deal with. No rigid model is therefore of use. But a common purpose or a common end may be very potent in furthering military organization. For ourselves we have, over here, worked out our organization quite definitely, and indeed the practical form of it is at present the subject of plans which are before Parliament. This conception of defence is that the army should be divided into two parts with distinct functions. There is a part with defence as its primary main function, and it has no obligation to go over the sea. That is raised by the citizens of the particular Dominion of the Crown concerned, simply for the purpose of home defence. There is the other part which exists not for local defence, but for the service of the Empire as a whole, the expeditionary force, which, in a country like ours, must be naval as well as military — and I go further, and say primarily naval" (*Ib.* p. 95).

"Our main purpose in bringing this subject before you to-day is to emphasize the desirability so far as possible that these home forces of the various self-governing Dominions of the Crown should be organized, if not to a common pattern — because rigidity of pattern we recognize is impossible with the varying circumstances of the various countries — yet with a common end in view and with this common conception.

"My main purpose in addressing the Conference is to suggest for your acceptance the opinion that the General Staff, which we have created at home and which is in its infancy, should receive as far as possible an imperial character. I will define what I mean. *It is not that we wish in the slightest degree even to suggest that you should bow your heads to any direction from home in military matters,* but the General Staff officer would have as his function this: Trained in a great common school, recruited, it may be, from the most varying parts of the Empire, but educated in military science according to

common principles, *he would be at the disposition of the local government* or of the local Commander-in-Chief, whether he were Canadian, British, or Australian, or New Zealander, or South African, *for giving advice and furnishing information based upon the highest military study of the time*" (*Ib.* p. 96).

"You have, I think, some five General Staff Officers in Canada at the present time. Now, as regards your General Staff Officers, although you have a distinguished British General Staff Officer with you, General Lake, there is no organic connection between what is your General Staff in embryo and our General Staff as we have just created it here. But suppose we were studying at home, in the General Staff, great questions of imperial defence and, amongst others, questions of imperial defence in Canada, what an advantage it would be to us, and I think to you also, if we sent you a General Staff Officer in exchange for one of your General Staff Officers, who should come over here and who should be working with us at the very problems which concern the defence of the Empire as a whole in Canada. And so with all the other affairs in the Crown's Dominions. It seems to me that we might broaden the basis of this General Staff which we have just created. It is a purely advisory organization of which command is not a function" (*Ib.* p. 97).

With reference to these proposals, Sir Frederick Borden said:

"Now I come more to the concrete part of Mr. Haldane's statement, particularly to the most important proposal, the resolution which we have before us, with reference to the establishment of the General Staff. I would like to know exactly, if I could, whether it is intended that the General Staff, which is responsible to the home government and to the Army Council and the Secretary of State for War, is to be linked in with General Staffs in the different parts of the Empire, or whether this central General Staff is to have independent authority throughout the Empire and in the different Dominions."

MR. HALDANE. "Not independent authority. It would be a training-school which would send out and lend out experts. Members of your local General Staff might also be members of the imperial General Staff."

SIR FREDERICK BORDEN. "It seems to me that that is a most important consideration. I would certainly favor it



strongly, and, as you have said, Mr. Haldane, Canada has already established a General Staff in embryo, and we hope to develop it. We recognize the absolute necessity for the existence of such a body, but it really seems to me that *we should have our own General Staff responsible to the Canadian government*, and in the same way, all the other Dominions which might, as you suggested, I think, exchange officers with your staff; *but I scarcely think it would do to have officers in the different Dominions who were responsible in the first place to the Secretary of State for War here.*"

MR. HALDANE. "The imperial General Staff for this purpose is a purely advisory body."

SIR FREDERICK BORDEN. "So long as that is understood, I would concur in that view, and I am very strongly indeed in favor of the idea of exchange of officers. I think we should do that, and we are doing it between the different departments of the various services of this country and the Dominion. I think, however, it is absolutely necessary that that point should be thoroughly established, because I can see difficulties in the way of an officer, for instance, in Canada considering himself to be in a position to advise, whether directly or indirectly, the War Office, without responsibility to the minister who has charge of such matters in Canada, and without responsibility to the principal military authority there. I do not wish to elaborate that point any further, but I am glad to know that you entirely concur in that view."

MR. HALDANE. "Certainly; and a memorandum will be drawn up by Sir Neville Lyttleton which will be submitted to you making that perfectly clear in detail, if we agree to carry this resolution into effect" (*Ib.* pp. 99, 100).

Mr. Deakin said:

"As to the interchange of officers, I am specially asked by my colleague, the Minister of Defence of the commonwealth, to press for an extension of that principle. We at present enjoy the privilege of exchanging with Canada and with India and with yourselves, single officers, sending to you and you sending to us. We find that, in every way, a useful practice; but we desire to carry it out on a larger scale; that is, larger for us because ours must be on a small scale, as I need not remind you" (*Ib.* p. 103).

Sir Joseph Ward (New Zealand) said:

"I would like to say I clearly understood from the observations of Mr. Haldane that what is suggested by him is in the direction of suggestion and not anything binding on the part of the colonies. What they may do will be of their voluntary act or of their voluntary coöperation and assistance in the direction of assisting and bringing about a general scheme that would be of advantage to the Empire as a whole."

The resolution proposed was amended by inserting "at the request of the respective governments" (p. 118) and was passed in the following form:

"That this Conference welcomes and cordially approves the exposition of general principles embodied in the statement of the Secretary of State for War, and, without wishing to commit any of the governments represented, recognizes and affirms the need of developing for the service of the Empire a General Staff, selected from the forces of the Empire as a whole, which shall study military science in all its branches, shall collect and disseminate to the various governments military information and intelligence, shall undertake the preparation of schemes of defence on a common principle, and, without in the least interfering in questions connected with command and administration, shall, *at the request of the respective governments*, advise as to the training, education, and war organization of the military forces of the Crown in every part of the Empire" (*Ib.* pp. v, vi).

#### INTERCHANGE OF REGIMENTS

Mr. Deakin (Australia), in reply to a suggestion in one of the papers put in by Mr. Haldane, said:

"Next, apparently a little out of its logical order, comes the proposal for an interchange of units, which in our case appears almost impracticable. The great distance which separates us, not only from this country, but from any other Dominion in which such an exchange would be proposed, is one obvious obstacle, but a greater obstacle is that our force of permanent men is relatively small; it consists of well-trained experts whom we should be loath to part with, and a unit in that sense we could hardly spare, even if its position was endeavored to be taken by an equally competent unit abroad. We have no possible objection to urge to this proposition except in our own case the question of its impracticability, that is as to the unit."

Sir Joseph Ward was of different opinion. He said:

"I would like very much to say that, upon this question of the interchange of units and officers, I hold a most pronounced opinion. Unlike my friend, Mr. Deakin, I think that New Zealand could arrange for interchange of units. We have the volunteer system there; we have had for years all the ordinary organizations referred to by Mr. Deakin in the matter of cadets and rifle ranges, and these are being excluded<sup>1</sup> for private citizens all over the country" ("Proceedings," p. 109).

*Summary.*—Summing up, we may say:

1. Differences in environment produce divergent views and interests as to matters connected with defence.

2. Canada has less cause for war-anxiety than any other part of the Empire. Her territory is safe from oversea expeditions. Her only neighbor is as pacific as herself.

3. At the Conference of 1887 Lord Salisbury proposed an imperial *Kriegsverein*, warning the colonies that

"the desire for foreign and colonial possessions is increasing among the nations of Europe."

4. At that Conference, the Australasian colonies agreed to pay £126,000 per annum in exchange for the location in their waters of certain war vessels.

5. At the Conference of 1897, Mr. Chamberlain pleaded for further contributions to the navy. Cape Colony responded with a contribution of £30,000 per annum.

6. At the Conference of 1902 Mr. Chamberlain's language became more peremptory. All the self-governing colonies, except Canada, agreed to send annual contributions to the navy, and the arrangements with Australia were modified, the sphere of operations of the localized warships being extended to the China and the East Indian stations.

7. At that Conference "some assurance" was asked

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<sup>1</sup> As in the "Proceedings," probably a misprint for *extended*.

“as to the strength of the contingents which they [the colonies] should be able to place at the disposal of His Majesty’s government for extra-colonial service in a war with a European power.”

Canada and Australia replied that the matter should be left

“to the colony, when the need arose, to determine how and to what extent it should render assistance.”

8. At the same Conference, the colonies were asked to organize special forces for extra-colonial service. Canada objected. Nothing was done.

9. Between the Conferences of 1902 and 1907, Australia became dissatisfied with her naval arrangements.

10. At the Conference of 1907, the Admiralty proposed local defence expenditure as a substitute for cash contributions. Australia declared that

“a monetary standard . . . is not the most acceptable standard for Australia.”

and the First Lord of the Admiralty said that he understood that

“in Australia particularly, and in South Africa, it is desired to start some naval service of your own.”

11. At that Conference, Cape Colony proposed that local expenditure should be made “after consultation with the Admiralty.” Canada objected, and the motion was dropped.

12. At that Conference, strong support was given to the previous decision as to military contingents — to act “when the need arose,” and meanwhile no special forces for extra-colonial service.

#### CONTRIBUTION WITHOUT CONTROL

There have always been, among Imperialists, some who agreed with the Canadian view that colonial contributions of

men and money for imperial wars could not fairly be expected, unless and until the colonies were admitted to a share of the responsibility for such wars.

The Imperial Federation (Defence) League frankly acknowledged the correctness of that principle. One of its original declarations was:

“That if the self-governing colonies take their share in the cost of such a system of defence [maritime defence], they must have a proportionate share in its administration and control.”

Lord Brassey, at one time vice-president of the Imperial Federation League and at another Civil Lord of the Admiralty, declaring that proposals for representation of the colonies in the Parliament or government of the United Kingdom were inadmissible, said:

“In view of these objections to any scheme of representation, we can hardly claim to receive contributions from the colonies to the imperial exchequer.”<sup>1</sup>

In 1894, the Imperial Federation (Defence) League presented a memorial to the British government urging that

“the occasion of the Conference should be seized for the establishment of a system whereby all self-governing countries of the Empire shall contribute to a common imperial fund” for the purpose of imperial defence, “provided that arrangements are made by which those countries can also share in the administration of the funds so provided.”<sup>2</sup>

Mr. Sam Hughes, a most ardent Canadian Imperialist, referring in the House of Commons to the proposal to send

“men and money from the colonies for the up-building of the British Empire,” said: “That falls to the ground because we have no representation in the British Parliament, and the principle is dear to the heart of every colonial that taxation carries the right of representation.”<sup>3</sup>

<sup>1</sup> *Nineteenth Century*, January, 1892, p. 96.

<sup>2</sup> *The Times*, June 29, 1894.

<sup>3</sup> February 14, 1907; Hansard, 2898.

Upon the same occasion Mr. Thomas Chisholm, another strong Imperialist, referring to the same principle, said:

“In direct violation of that British principle, it is suggested that Canadians should contribute to Great Britain’s navy which they have no means of controlling; that they should assist in British wars which they have no means of preventing; and that they should do all this without having any voice whatever in the expenditure of the money which they themselves would contribute for these purposes. Do the inhabitants of Great Britain imagine that Canadians will submit to something which they would not tolerate themselves? If they did so, then the term ‘only a colonial’ would certainly be appropriate.”<sup>1</sup>

Apart from the principle involved in these declarations, the unanswerable practical argument in support of them is contained in the language of the Imperial Federation (Defence) Committee itself (Pamphlet No. 2):

“It is evident that in stress of war the first call on the navy must be to defend the United Kingdom, the people of which pay for and control it. It is inevitable that they should think of themselves first. History shows that in the war of 1779–1782 the West India Islands — then the most valuable of the British colonies — were virtually abandoned till the Channel was made safe” (p. 7).

A second-call navy is not the sort of navy that Canada would care to pay very much for.

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<sup>1</sup> Hansard, 2907.



## AN IMPERIAL COUNCIL

Of all Mr. Chamberlain's proposals the most insidious and dangerous was the suggestion of an Imperial Council. Why, said he, at the Colonial Conference of 1897, might it not be "feasible to create a great Council of the Empire to which the colonies would send representative plenipotentiaries . . . persons who . . . would be able to give really effective and valuable advice?"<sup>1</sup>

What objection could any government, British or colonial, offer to advice? or to the establishment of some "great Council" to formulate it? Objection enough, as we shall see, even if the "great Council" confined itself to its seemingly harmless function of giving advice to countries that would be fairly certain *not* to follow it (countries, like persons, while glad to get reasons, having strong antipathy to advice); but the chief objection was the avowed expectation and intention that the "great Council" would not limit itself to giving advice, but would develop into a great Parliament, and take to itself much of the legislative authority which is now exercised by the colonies. Mr. Chamberlain was perfectly frank about that. He said:

"If such a Council were to be created, . . . it is perfectly evident that it might develop into something still greater."<sup>2</sup>

<sup>1</sup> Opening speech, Colonial Conference, 1897.

<sup>2</sup> *Ib.* Mr. Chamberlain also said: "In this country, at all events, I may truly say that the idea of federation is in the air."



The Conference having declined to approve the proposal,<sup>1</sup> Mr. Chamberlain at the next Conference (1902) again brought it forward, saying that

“the Council might in the first instance be merely an advising Council. . . . But although that would be the preliminary step, it is clear that the object would not be completely secured until there had been conferred upon such a Council executive functions, and perhaps also legislative powers,<sup>2</sup> and it is for you to say, gentlemen, whether you think the time has come when any progress whatever can be made in that direction” (*Ib.* p. 4).

The Conference evidently thought that the time had not come, for they did nothing.

Then occurred a very curious episode — a mixture of mystery and naïveté, very amusing to colonials. About fifty persons in England discussed and debated for about a year and a half, agreed upon a plan, and chose Sir Frederick Pollock as their spokesman, who on October 17, 1904, and February 9, 1905, in *The Times*, and on April 11, 1905, in a paper read before the Royal Colonial Institute, announced the scheme.

He declared that among his associates were some very distinguished people, but although there were reasons which (except in the case of three persons whom he named) inevitably prevented “any disclosure of their names,” he assured his readers and hearers that

“whatever else the suggestions I am to lay before you may be, they are no crude project of doctrinaires or amateurs.”

<sup>1</sup> The Conference resolved (Mr. Seddon and Mr. Braddon dissenting) “that the present political relations between the United Kingdom and the self-governing colonies are generally satisfactory, under the existing condition of things.”

<sup>2</sup> The legislative powers which Mr. Chamberlain hoped for included “large powers of taxation.” See *ante*, “Mr. Chamberlain’s Proposals,” at p. 148.

That these fifty people knew little of the subject when they first met; that much time was spent before they became aware of that fact; and that they found out very little else, is very clear from the glimpse which Sir Frederick gives us of their meetings:

“For a while we considered the usual expedient of making a new club or association. But when we tried to formulate principles, it was borne in upon us gradually and firmly that general formulas were just what we could not at that stage agree upon and did not want; that we should do better without rules, or even a name, and that the only prospect of useful results was in perfectly free and confidential discussion among persons not too many for the purpose.”<sup>1</sup>

Finally, however,

“the tossing of our thoughts at a few meetings . . . disclosed a tendency to crystallize a definite line, and last October, after about a year’s work of this kind, we were able to put forward a first collective statement.”

The statement put aside all idea of a federal Parliament, for that

“assumes the consent of several independent legislatures and involves a considerable modification of their existing authority. I am not aware of any reason for thinking that the Parliament of the United Kingdom would easily be persuaded to reduce itself by a solemn act to a mere State legislature, or that the colonial governments would be willing to surrender any substantial part of their autonomy to some new federal Senate or Council.”

Colonial representation in the imperial Parliament was also discussed, but repudiated:

“No one, I believe, is now found to advocate a direct representation of the colonies in Parliament.”

Another point seemed also to be clear: namely,

“that we must distinctly renounce the invention of any new kind of executive or compulsory power.”

<sup>1</sup> “Imperial Organization,” by Sir Frederick Pollock; a paper read before The Royal Colonial Institute, April 11, 1905.

What then?

"We must therefore be content with a Council of Advice (an 'Imperial Council or Committee') which will have only — what is called 'persuasive authority.'"

This and a permanent "Secretariat" to act "as a general intelligence department" were the proposals of the Fifty; and with a view to their ultimate acceptance Sir Frederick said that

"It is proposed to carry on our work until the meeting of the next Colonial Conference at all events."

Conversion of Canada being the knottiest part of the work, Sir Frederick and Mr. Geoffrey Drage proceeded to Ottawa, argued with the politicians there, and at meetings in various places explained the project. Their failure was complete. Referring to their last meeting, Sir Sandford Fleming, a pronounced and eminent Imperialist, said:

"Yesterday they addressed a public meeting in the rooms of the Montreal Board of Trade, when Sir Frederick informed those present to the effect that he and his colleagues had discovered that the time was not ripe for the first part of their proposal, viz., the formation of an Imperial Council, but that the strongest reasons exist for immediately instituting an Imperial Intelligence Department."<sup>1</sup>

The spokesman of the Fifty made that point, at least, perfectly clear to the Canadians who heard him.

Among the undisclosed members of the Fifty was very probably Mr. Alfred Lyttleton, the Colonial Secretary. That he was at all events in close sympathy with the project was made manifest by his circular despatch to "the Governors of the self-governing colonies" of April 20, 1905, in which he said that

"in the opinion of His Majesty's government it might be well to discard the title of 'Colonial Conference,' which imperfectly

<sup>1</sup> See Can. Sess. Pap., 1906, No. 67.

expresses the facts, and to speak of these meetings in future as meetings of the 'Imperial Council.'"<sup>1</sup>

Sir Frederick Pollock's "Secretariat" was also proposed under the name of a "Commission" with "an adequate Secretariat Staff." The functions of this commission were to be "of a purely consultative and advising character," but the "Imperial Council" was to be unfettered by definition:

"His Majesty's government doubts whether it would be wise or necessary to give, by any instrument, to this Council a more formal character, to define more closely its constitution, or to attempt to delimit its functions. The history of Anglo-Saxon institutions, such as Parliament or the Cabinet-System, seems to show that an institution may often be wisely left to develop in accordance with the circumstances and, as it were, of its own accord, and that it is well not to sacrifice elasticity or power of adaptation to premature definiteness of form."

To this plain proposal to plant a Council with the hope that it might grow into something else, Australia, Cape Colony, and Natal sent favorable answers. New Zealand's reply was deferred until after its elections, and is not included in the published correspondence. Newfoundland dissented, being fearful of pressure in connection with contribution to imperial defence and trade preferences. Canada alone made satisfactory answer. She declined to agree to that which "might eventually come to be regarded as an encroachment upon the full measure of autonomous legislative and administrative power now enjoyed by all the self-governing colonies."

Canada had no objection to the substitution of the adjective "imperial" for "colonial." There seemed indeed to be some necessity for the change, for as Mr. Lyttleton said in his circular despatch:

"The Conferences now consist of the Prime Ministers of the self-governing colonies, together with the Secretary of State

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<sup>1</sup> See "Correspondence relating to the Future Organization of Colonial Conferences" (Cd. 2785).

for the colonies . . . for the discussion of matters which concern alike the United Kingdom and the self-governing colonies."

But the original reason given at the first of the Conferences (1887) for the use of the word "colonial" instead of "imperial" — namely, that "India is not included"<sup>1</sup> — was overlooked both by Mr. Lyttleton and the Premiers who assented to the change.

At the Conference of 1907, Australia proposed the adoption of Mr. Lyttleton's suggestion, moving

"that it is desirable to establish an Imperial Council to consist of representatives of Great Britain and the self-governing colonies chosen *ex officio* from their existing administrations."<sup>2</sup>

Cape Colony and New Zealand made proposals of similar import. The situation was difficult and full of danger, but before the logic of the Canadian Order-in-Council the peril quickly disappeared. Sir Wilfrid Laurier opened the discussion by shrewdly suggesting that before deciding upon a change of name, it would be advisable that

"we should know beforehand what should be the functions and the powers and duties of the Council, and define those, and then according to the functions which were deputed to it the title would depend."<sup>3</sup>

Forthwith everybody disclaimed the idea of allotting any particular functions to the Council, and Mr. Deakin (Australia) said:

"Consequently when the despatch of the Prime Minister of Canada was placed in our hands, and the suggestions derived from the experience of the government of the connotations of the word 'Council' were put before us, we at once agreed that if Sir Wilfrid Laurier thought fit to press that view, for our own part there would be no objection to adopting the title which he

<sup>1</sup> See "Proceedings of the Conference," p. 371.

<sup>2</sup> "Minutes of Proceedings" (Cd. 3523), p. 26.

<sup>3</sup> *Ib.* p. 26.

suggested instead of that which we had proposed. We accept the term 'Imperial Conference' instead of 'Imperial Council'" (*Ib.* p. 27).

It was fortunate that Mr. Lyttleton had disappeared from the Colonial Office, and that the new Secretary (Lord Elgin) disagreed with him. At the Conference, Lord Elgin said:

"In what I have said hitherto, I have, no doubt, rather assumed that I was speaking of what I imagine possibly might be the idea underlying the New Zealand resolution as to an Imperial Council in place of this Conference. I repeat, that I do not think that that is practicable, at any rate, in the meantime" (*Ib.* p. 37).

Australia and Cape Colony argued strenuously for the establishment of a Secretariat independent of the Colonial Office. Sir Wilfrid Laurier opposed the proposal:

"The Colonial Office, which is already divided into departments, is the proper department to deal under ministerial responsibility with the self-governing colonies or Crown colonies" (*Ib.* p. 30, and see p. 40).

New Zealand and the Transvaal sided with Canada, and the Colonial Secretary joined with them, saying:

"It is not what we have had, and I am afraid it would be very difficult for me to agree, on behalf of His Majesty's government, to the establishment of a body with independent status or authority. It would be contrary to the freedom and independence of which the Prime Minister spoke at our meeting on Monday. Therefore it was, that we did feel with Canada that there might be, under a proposal of this kind, a danger to the autonomy of us all — not only us here, but the self-governing colonies as well. In the self-governing colonies, as with us, I need scarcely remind the members of the Conference, the basis of all British government is the responsibility of ministers to their Parliaments; not only as here our responsibility to the British Parliament, but your responsibility to your Parliaments. I venture to think that to do anything to establish a body that might interpose in any way between ministers and the Parlia-

ments to which they are responsible might almost endanger the liberties which ought to be inviolate. I, for my part, find it difficult to imagine that a body in any way independent of ministers here or in the colonies, established in this country, could be in accordance with the principles to which I have referred. I know it is said that nothing executive is intended, and it is to be nothing but advisory. I am afraid I do not think that that entirely removes the objection. We have, even in private life, sometimes had experience of the candid friend, the man whose advice we cannot help listening to, though, perhaps it does not always strengthen our hands in the process. I venture to think that there would be a relative danger, but, of course, under all the circumstances, a much more important danger, in the establishment of a body, in any way independent, in connection with these Conferences; and I think I may say for my colleagues that we all think ministers must be secured in the direct responsibility which they hold to their Parliaments" (*Ib.* pp. 36, 37).

The Colonial Secretary agreed that any work to be attended to in connection with the Imperial Conferences should be committed to a separate department of the Colonial Office.<sup>1</sup> Mr. Deakin objected that the Colonial Office was too official, and he pressed for a Secretariat under the control of the Prime Minister. The Prime Minister declined the responsibility,<sup>2</sup> and the Colonial Secretary's proposal had to be accepted. Probably we have heard the last of an Imperial Council with its independent Secretariat.

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<sup>1</sup> *Ib.* pp. 69, 70, 75, 91, 619, 623.

<sup>2</sup> *Ib.* p. 68.

## AN IMPERIAL COURT OF APPEAL

THAT discussion tends not to federation of the Empire, but to enfranchisement of the colonies, is made very apparent by the history of the subject of appeals from colonial courts to courts in London, England.

In earliest days it was the right of every British subject to take his case to "the foot of the throne," to lay his complaint before his Sovereign; and the King's "prerogative" to right all wrongs, whether done by private individuals or by his judges, was a reality. In later centuries the King has had no such power; and no litigant now approaches him for that purpose. But the phrases persist; no discussion of colonial appeals is free from them; and many minds are influenced by a stupid sense of loyalty to the King, which the language seems to connote. In the imperial Parliament itself, where every member is perfectly informed of the facts, Mr. Haldane, as late as the year 1900, had to remind the speakers

"that the expression, of which in these debates we have heard much, the 'Queen's prerogative,' is a mere technical phrase and should be put aside."<sup>1</sup>

The "prerogatives" of the Crown have in these later times become "prerogatives" of the people; and the King now has no more connection with the administration of justice than he has with the public lands, or the post-office. In delivering their judgments, the Judicial Committee of the Privy

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<sup>1</sup> Debate on the Australian Commonwealth Bill, May 14, 1900.



Council still continue to say that they will "humbly advise His Majesty" to allow or to dismiss the appeal with costs; but His Majesty in this, as in other matters, always does as advised — never even considers whether he should do otherwise. The Judicial Committee is, in reality and downright fact, nothing but a Court of Appeal, its very constitution being the subject of legislation<sup>1</sup>; and it has appellate jurisdiction from the colonies only. There is not even a pretence that Englishmen, Scotchmen, or Irishmen may take their lawsuits to "the foot of the throne."

No one knows these facts better than the members of the Judicial Committee, and yet when, in 1871, some of the Australian colonies suggested the abolition of appeals to London, the committee defended its existence and jurisdiction in this way:

"It is impossible to overlook the fact that this jurisdiction is part of Her Majesty's prerogative, and which has been exercised for the benefit of the colonies since the date of their settlement. It is still a powerful link between the colonies and the Crown of Great Britain, and secures to every subject throughout the Empire the right to redress from the throne. It provides a remedy in many cases not falling within the jurisdiction of the ordinary courts of justice. It removes causes from the influence of local prepossession. It affords the means of maintaining the uniformity of the laws of England and her colonies, which derive a great body of their laws from Great Britain; and enables them, if they think fit, to obtain a decision in the last resort from the highest judicial authority, composed of men of the greatest legal capacity existing in the metropolis."

The statement carries its own contradiction on its face: "This jurisdiction is part of Her Majesty's prerogative," and it secures "the right to redress from the throne," by obtaining

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<sup>1</sup> See Imperial Statutes, 3, 4 Wm. IV, c. 41; 6, 7 Vic. c. 38; 7, 8 Vic. c. 69; 14, 15 Vic. c. 83; 34, 5 Vic. c. 91; 44, 5 Vic. c. 3; 50, 1 Vic. c. 70; 58, 9 Vic. c. 44.

a decision, not from the throne at all, but from "men of the greatest legal capacity existing in the metropolis."

Their Lordships urge that their appellate control over colonial courts "is still a powerful link between the colonies and the Crown of Great Britain." But their Lordships speak without precision. The existence of the Privy Council may be and is a link between the colonies and the United Kingdom — a link between two countries. It is one of the few remaining badges of colonialism, of subordination, of lack of self-government. In colonial charters down to the last of them this subjection, or at least some part of it, is continued and insisted upon. But it is not the Crown that so insists, but British statesmen. And it is not the prerogative of the Crown that is upheld, but the right of judges appointed by the government of the United Kingdom to sit in appeal from the decisions of judges appointed by the colonies. Cessation of such appeals would have no effect whatever upon colonial relationship to the Crown, for the Crown has in reality nothing to do with such appeals.

Their Lordships argue that their court

"provides a remedy in many cases not falling within the jurisdiction of the ordinary courts of justice."

But that language has no application to Canada.

Their Lordships urge that their jurisdiction

"removes causes from the influence of local prepossession."

But very probably they would not regard that as a satisfactory or sufficient reason for sending English cases to the Supreme Court at Ottawa.<sup>1</sup> Local information and local methods are very frequently essential to the understanding of a dispute. They are not disqualifications for judicial action. If by "local prepossession" was meant "judicial partisan-

<sup>1</sup>The recent Presbyterian Church case, for example.

ship" (which is probable), their Lordships supplied another example of their unfamiliarity with colonial affairs.

The last argument — that the court

"affords the means of maintaining the uniformity of the law of England and her colonies"

is a strong reason for abolishing appeals. Colonial laws are very different from, in some respects quite contrary to, English laws. Colonies were given Parliaments, largely because it was impossible that peoples widely separated should be content with one set of laws. Colonies do not wish to maintain their laws uniform with English laws; and they do not desire that they should be forced into uniformity by process of judicial decision. In truth, Canada has not been aware that the Judicial Committee endeavored to maintain the uniformity their Lordships speak of. It is, we believe, more true, as Mr. Asquith said during the debate upon the Australian Commonwealth Bill, that it had been the special care of their Lordships to maintain

"most jealously and scrupulously the integrity of the different systems of laws," and they "have prevented as far as they can any filtration of ideas from a foreign source of law which might permeate and corrupt another system." "You cannot have a uniform interpretation of diverse systems of law."

In 1875, the Australian colonies revived the subject of appeals, and again the Judicial Committee upheld their court — this time declaring that

"this power had been exercised for centuries over all the dependencies of the Empire by the Sovereign of the mother country sitting in Council. By this institution, common to all parts of the Empire beyond the seas, all matters requiring a judicial solution may be brought to the cognizance of one court in which all have a voice. To abolish this controlling power and abandon each colony and dependency to a separate Court of Appeal of its own, would obviously destroy one of the most important ties connecting all parts of the Empire in com-

mon obedience to the courts of law; and to renounce the last and most essential mode of exercising the authority of the Crown over its possessions abroad."

The fiction of a "right to redress from the throne," is here abandoned, and instead of "the throne" we have a "court in which all have a voice." Did their Lordships mean that they were elected by universal suffrage? Probably not; but what then did they mean?

According to the previous statement, cessation of appeals to a Downing Street court meant the rupture of "a powerful link between the colonies and the Crown," now it

"would obviously destroy one of the most important ties connecting all parts of the Empire in common obedience to the courts of law."

What that means may be clear enough in England, but Canadians will find it difficult of interpretation. In any case, is there really any great necessity for a tie "connecting all parts of the Empire in common obedience to the courts of law"? Obedience to the courts is good, but will obedience to the courts fail if all parts of the Empire are not tied together? If so, it would be well for us to know what the other ties are (this is "one of the most important") in order that they too may be kept fast — what are they? Note, too, that it is common obedience to the "courts of law" that must be conserved. Does that include the Privy Council? If so, what was meant by "redress from the throne"?

Is there any overpowering reason inhibitive of the use of plain, truthful language when discussing the Privy Council? Was it because Mr. Chamberlain could think of nothing better to say in support of its continuation that, in the debate upon the Australian Commonwealth Bill (May 14, 1900), he quoted the above extract? We shall see.

*Statute of 1895.* — In pursuance of his idea of federation of

the Empire "by a process of gradual development," Mr. Chamberlain, shortly after his accession to the office of Colonial Secretary, procured the passage of an imperial statute<sup>1</sup> under which appointments to the Judicial Committee might be made from Canada, Australasia, and Cape of Good Hope. That could be done without the assent of the colonies. We shall see what it effected.

*Conference of 1897.* — At the Conference of 1897, in his opening speech, Mr. Chamberlain (the Colonial Secretary) said:

"The Judicial Committee of the Privy Council is the great Judicial Court of Appeal of the Empire.<sup>2</sup> It is the nearest approach, the closest analogy, to the Supreme Court of the United States. It is a body of almost universal and world-wide reputation and authority, and it is our desire naturally, in pursuit of the ideas which I am venturing to put before you, to increase its authority, if that be possible, and to give it a more representative character; and with that view we have most gladly secured the appointment as Privy Councillors of distinguished judges from the courts of Canada, of Australia, and South Africa, and they now will take their seats on equal terms with the other members of the Judicial Committee. Well, gentlemen, that is a good beginning, but I do not think that you can feel that at present the arrangement is on a permanent footing. There are objections to the present system which will present themselves to every mind. The judges who have been chosen have hitherto been judges who are still in active practice. That, at the outset, raises a considerable difficulty. It will be difficult for these judges, even if it were consistent with our general idea of what is right, to take part in appeals in regard to cases upon which they have already decided. And another difficulty is that, by the necessity of their position, the greater part of their time will be spent in the colonies from which they come. They will only be here for indefinite periods and, as it were, on casual occasions. It is impossible to arrange the business of the Privy Council or to delay the suitors to meet their convenience; and the result of that is that though they would sit as judges of the Privy Council it may very often happen that they would not

<sup>1</sup> 58, 9 Vic. c. 44.

<sup>2</sup> And not "the foot of the throne."

be present or be able to serve precisely on the occasions on which they might be most useful. Now all that could be altered by the colonies themselves, and this is one of the subjects I recommend to your attention. If these gentlemen were appointed solely and entirely for the purpose of representing the groups of colonies on the Privy Council, they could reside permanently in this country, and not being themselves actively engaged in judicial work at home, they could sit and assist the Privy Council in all cases in which their respective colonies were engaged; and I think this would go very far to strengthen the position of the Privy Council, and at the same time to give to all the colonies a security that justice would be done when they appeal to this great institution."

So far as appears by the official record of the proceedings of the Conference, no notice was taken of this part of Mr. Chamberlain's address. No resolution with reference to it was passed. The colonies did nothing to make Mr. Chamberlain's statute effective.

*Australian Commonwealth Bill.* — After long negotiations and discussions, New South Wales, Victoria, South Australia, Queensland, and Tasmania agreed to unite in one indissoluble federal commonwealth; and they drafted for themselves a constitution and approved it by popular vote. The clause of the draft relating to Privy Council appeals was as follows:

"74. No appeal shall be permitted to the Queen in Council in any matter involving the interpretation of the constitution of a state, unless the public interests of some part of Her Majesty's dominions other than the commonwealth or a state are involved.

"Except as provided in this section, this constitution shall not impair any right which the Queen may be pleased to exercise, by virtue of her royal prerogative, to grant special leave of appeal from the High Court to Her Majesty in Council.

"But the Parliament may make laws limiting the matters in which such leave may be granted."<sup>1</sup>

<sup>1</sup> This draft and various other documents connected with the formation of the commonwealth together with the debates in the British House of Commons are printed in a volume entitled, "Commonwealth

To these clauses Mr. Chamberlain (the Colonial Secretary) took strong exception (1900), arguing that it was the bounden duty of Her Majesty's government

"to protect the interests of the United Kingdom and of other parts of the Empire which are also committed to their charge.

"The question of the right of appeal must also be looked at from the point of view of the very large class of persons interested in Australian securities or Australian undertakings, who are domiciled in the United Kingdom. Nothing could be more prejudicial to Australia than to diminish the security felt by capitalists who desire to invest their money there. One element in the security which at present exists is that there is the possibility of an ultimate appeal to the Queen in Council, and there is a very strong feeling against it.

"Article 74 proposes to withdraw from the Queen in Council matters involving the interpretation of the constitution. It is precisely on questions of this kind that the Queen in Council has been able to render most valuable service to the administration of law in the colonies, and questions of this kind which may sometimes involve a good deal of local feeling are the last that should be withdrawn from a tribunal of appeal with regard to which there could not be even a suspicion of prepossession."

He added that the article would

"tend to destroy uniformity of decision in constitutional questions."<sup>1</sup>

Mr. Chamberlain's real reason, however, for refusing assent to Australia's draft was not any of these. It was this:

"In conclusion it should be remembered that the question must be looked at from a still wider point of view.

"The retention of the prerogative to allow an appeal to Her Majesty in Council would accomplish the great desire of Her Majesty's subjects both in England and Australia that *the bonds which now unite them may be strengthened rather than severed*, and by insuring uniform interpretation of the law throughout the Empire, facilitate that unity of action for the common interests which lead to a *real federation of the Empire*.

of Australia Constitution Bill." It is to the pages of that book that references will be made.

<sup>1</sup> Debate in House of Commons.

"The object of every one at present should be to draw closer together all parts of the Empire. The existence of the right of appeal, subject to the leave of the Privy Council, has been a link effectively binding together every part of Her Majesty's Dominions; the weakening of this tie would seriously lessen the value of even so great and beneficent a result as the federation of Australia.

"If the bill were passed in its present form, while it would mark a step in advance as far as the federation of Australia is concerned, *it would be a retrograde measure so far as it affects the larger question of Imperial Federation.*"

The reply of the Australian delegates (except Queensland) to all of these reasonings was very good:

"British investors are content to lay out their money in other parts of the world under alien laws interpreted by alien tribunals. Australians will be prone to doubt that such investors can be seriously alarmed at the proposal of having afforded to their investments in Australia the security of British laws administered by British judges, a security which will never be questioned.

"The contention for the finality of the judgments of the High Court is based by Australians on the argument that if they are fit as is conceded to make a constitution for themselves, they are fit also to say what that constitution means, and for that purpose they should be allowed to rely on the decisions of their High Court. Judicial knowledge of local conditions, invaluable always, is indispensable in the interpretation of constitutions."

To the argument based upon the destruction of the "uniformity of decisions in constitutional cases," the delegates replied:

"The constitution of Canada is entirely different from the Commonwealth Bill in many points, but especially as regards the reservation of residuary powers. . . . Uniformity of decisions in questions such as these would be an attempt to bring differing constitutions into line, with the result of confusion and disaster."

And to Mr. Chamberlain's lecture as to what "the object of every one at present should be," the delegates answered:



"The delegates reflect with pride that there are sentiments which will constitute eternal 'links of empire,' but are quite unable to understand how there can ever be the least hope that we can merely 'by insuring uniform interpretation of the law throughout the Empire, facilitate that unity of action for the common interests which will lead to a real federation of the Empire.' The 'unity of action' and the 'uniform interpretation of the law' seem to them wholly unrelated, and certain to remain so. The consciousness of kinship, the consciousness of a common blood and a common sense of duty, the pride of their race and history, these are the links of Empire; bands which attach, not bonds which chafe. When the Australian fights for the Empire, he is inspired by these sentiments; but *no patriotism was ever inspired or sustained by any thought of the Privy Council.*

"The delegates fail to see how its monopoly of the right of final interpretation can tend to make the Australian feel that it binds his affections more closely to the mother of his race. The tie of affection will last as long as its causes. May that be forever. The tie which is not rooted in affection is no boon, it is an injury; and yet we are told it is to be maintained lest Her Majesty's judges in Australia should give interpretations to the British laws and the constitution of that land which will usurp the powers, or endanger the interests of their fellow-subjects elsewhere. Even now Australian legislatures have the power to make declaratory laws, and cases have arisen in which they have declared by Act of Parliament the meaning of their laws to be *the reverse of that which the Judicial Committee has attributed to them.* Will it be said that this legislative power thus exercised by Australians, to interpret finally their own laws, is a danger to British interests or a destroyer of any link of Empire? Unless the power is so chargeable, its existence and exercise seem quite inconsistent with the position set up by the memorandum of the government. Why should not Australians have the alternative of interpreting their meaning on the bench as in the Senate? Are their judges less trustworthy than their legislators?" ("Proceedings," pp. 163, 164).

The delegates declined to alter a word of their draft bill, and Mr. Chamberlain changed it without their assent, substituting the following clause:

“Notwithstanding anything in the constitution set forth in the schedule to this Act, the prerogative of Her Majesty to grant special leave to appeal to Her Majesty in Council may be exercised with respect to any judgment or order of the High Court of the commonwealth or of the Supreme Court of any state.”

Introducing his bill on May 14, Mr. Chamberlain was at once met with opposition. Sir H. Campbell-Bannerman said:

“Simple people, and I class myself among them, not being in the least learned in the law, will ask why should it be so dangerous to leave the interpretation of the Commonwealth Act to those best acquainted with the circumstances and the state of feeling out of which it has arisen? Surely those who have framed it, who have seen the growth of the whole question, know what was intended when the Act was passed by the Australian people, and are better able to judge of the spirit and intention than persons who, though more learned, have no such acquaintance with local feeling” (*Ib.* p. 24).

Referring to “links of Empire,” Mr. Edward Blake said:

“I believe the condition to be not as the Colonial Secretary said in his speech on the first reading. I do not believe, as he said, that they could be snapped by a touch. I believe them to be strong and real. But I believe them to be absolutely impalpable, not founded on costly appeals, not on your clauses of reservation, not on your powers of disallowance, and not on the paramount legislative power of this Parliament. I am not complaining of these things. But they are not the real links that bind the whole” (*Ib.* p. 49).

Unable to have his way, Mr. Chamberlain retreated under cover of a compromise, the clause, as finally agreed to, reading as follows:

“No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question, however arising, as to the limits *inter se* of the constitutional powers of the commonwealth and those of any state or states, or as to the limits *inter se* of the constitutional powers of any two or

more states, unless the High Court shall certify that the question is one which ought to be determined by Her Majesty in Council.

“The High Court may so certify, if satisfied that for any special reason the certificate should be granted, and thereupon an appeal shall lie to Her Majesty in Council on the question without further leave.

“Except as provided in this section this constitution shall not impair any right which the Queen may be pleased to exercise by virtue of her royal prerogative to grant special leave to appeal from the High Court to Her Majesty in Council.

“*The Parliament may make laws limiting the matters in which such leave may be asked*; but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty’s pleasure.”

It will be observed that appeal to the Privy Council in certain constitutional cases (“the last that should be withdrawn from a tribunal of appeal”) is forbidden, unless the Australian court gives permission; and that, subject to the possibility (the great improbability) of an imperial veto, the Australian Parliament is given power to prohibit all appeals.<sup>1</sup>

*A Court of Appeal for the Empire.* — One reason which Mr. Chamberlain urged for the retention, in the Commonwealth Bill, of appeals to the Privy Council has not been stated. It was as follows:

“But apart from this consideration, the time is specially inopportune for any proposal to curtail its jurisdiction. Proposals are under consideration for securing a permanent and effective representation of the great colonies on the Judicial Committee, and for amalgamating the Judicial Committee with the House of Lords, so as to constitute a Court of Appeal for the whole British Empire. It would be very unfortunate if Australia should choose this moment to take from the imperial

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<sup>1</sup> Mr. Chamberlain himself acknowledged that the reservation of the veto-right was little or nothing, for he said during the debates (May 14) that “it would make it almost a stultification on the part of Her Majesty if the Committee were advised to exercise that right in a matter which we had expressly referred and delegated to the new Parliament” (*Ib.* p. 16).

tribunal the cognizance of the class of cases of greatest importance, and often of greatest difficulty" (*Ib.* p. 152).

Here was another line along which Mr. Chamberlain proposed to work out his Imperial Federation ideas — "a Court of Appeal for the whole British Empire." He soon abandoned it. In a circular letter to the Governors of the self-governing colonies (February 15, 1901) summoning a conference upon the subject of colonial appeals, he said:

"The two existing courts, the House of Lords and the Privy Council, have their origin far back in history. Their traditions and procedure, and the form in which their decisions are conveyed, are widely different. These differences, which may be traced directly to the different sources from which the courts originated and derived their authority, are of great historical interest, and reveal the persistence and at the same time the growth and vitality of English institutions.

"From the point of view of sentiment, therefore, it would be desirable to endeavor to preserve, as far as possible, the associations of the two existing courts. Colonial suitors and their agents, moreover, are accustomed to the procedure of the one, while suitors in this country are accustomed to the other; and there is reason to believe that in the colonies there is a considerable body of public feeling in favor of retaining the present practice under which the final decision on colonial appeals is the direct act of the Sovereign on the advice of the Judicial Committee."<sup>1</sup>

*Inefficiency of the Privy Council.* — The weakness of the Judicial Committee of the Privy Council as compared with the House of Lords (the final Court of Appeal for English, Scotch, and Irish cases) was one reason for objection to it. During the debate on the Australian Commonwealth Bill, Mr. Haldane (who had had large practice before the Privy Council), referring to the fact that the House of Lords and Privy Council courts were largely composed of the same men, said:

<sup>1</sup> Mr. Chamberlain had a very erroneous idea of public feeling in the colonies. Empty forms do not there usually count for very much.

"If there are two tribunals sitting for the despatch of the same business, the one is starved in order to keep up the other, and the judicial strength inevitably gravitates toward the House of Lords; and until you make the colonials feel that the tribunal to which they come is the same as that to which you yourselves appeal, you will never get their confidence.

"The result has been that though the Privy Council is considered good enough for the colonies, it is not allowed in Great Britain and Ireland to be good enough for us."<sup>1</sup>

*Colonial Conference, 1901.*— Impressed with the necessity, from an imperial standpoint, of the maintenance of a colonial Court of Appeal in England, but abandoning his "Court of Appeal for the whole Empire," Mr. Chamberlain, with a view of recommending the Privy Council to the colonies and popularizing it there, next proposed to appoint from amongst colonials

"four additional Law Lords with seats in the House of Lords as well as on the Judicial Committee,"

and in February, 1901, he summoned a Colonial Conference<sup>2</sup> to consider the proposal, saying, quite erroneously, that,

"This proposed measure was regarded by Her Majesty's government as affording a way of meeting *the legitimate desire of the colonies* for more effective and continuous representation on the Judicial Committee than that afforded by the arrangement embodied in the Act of 1895."

During the debates on the Australian Commonwealth Bill in 1900, Mr. Chamberlain had already, and at greater length, stated his proposal. Referring to the Act of 1895 under which one representative from Canada, from South Africa,

<sup>1</sup> *Ib.* pp. 34, 35. One of the recommendations of the Conference of 1901 (see *infra*) was that, "It is desirable that arrangements should be made for securing a larger attendance of Lords of Appeal at sittings of the Judicial Committee." Consult Clark's "Australian Commonwealth Law," pp. 346 ff.

<sup>2</sup> See a British Blue Book (Cd. 846), entitled "Correspondence relating to the Proposed Establishment of a Final Court of Colonial Appeal."

and from Australia had been appointed to the Privy Council, he had said:

“The result has been as we expected. It made no provision for paying these gentlemen. The Australian colonies and the other colonies concerned — I am not quite certain about Canada — did not propose to pay themselves, and that confined the selection; and the gentlemen actually selected were judges of high distinction, but who were still engaged in judicial functions in the several colonies. The result was that they could not be here permanently to deal with colonial cases in which they were interested. Another subsidiary result was that when they were here and a colonial case came up, it might be one with which they had already dealt in their judicial capacity in the colonies. Practically, therefore, although some of these judges — I believe all of them — have taken their seats and have assisted in the deliberations of the Judicial Committee, we have not secured, by means of that Act, such a permanent constitution of the Judicial Committee as would make it certain that on every occasion when a colonial case was involved there was a colonial judge with full knowledge of local conditions well qualified to advise his colleagues. Therefore what we propose, pending further consideration which must be given to any greater scheme, is to appoint for seven years a representative from each of these colonies and India, to be members of the Privy Council, who shall also act during that period as Lords of Appeal, and upon whom will be conferred life peerages so that they may continue to sit in the House of Lords, although they will not act as judges after the term of their service has expired. It may be that those services will be renewed, and provision may be taken to renew them, if thought desirable. The judges so appointed will be paid the same salaries as the Lords of Appeal are now paid, and payment will be made at the cost of the imperial Parliament.”

Canada sent its Minister of Justice (Mr. David Mills) to the Conference, giving him instructions by an Order-in-Council:

“The Committee would at the same time observe that your Excellency’s government is not dissatisfied with the manner in which the Board of the Judicial Committee of the Privy Council is at present constituted, and, as now advised, they

do not see any advantage to be gained by the creation of four additional Law Lords, to be chosen from the self-governing colonies, with seats in the House of Lords as well as on the Judicial Committee.”<sup>1</sup>

The result of the Conference was announced by Mr. Chamberlain to the colonial Governors (August 10, 1901):

“The result of the Conference has been to show that no far-reaching alteration in the present tribunal is desired or would be considered satisfactory by the colonies generally, and so long as the colonies are of that opinion, His Majesty’s government do not propose to make any material changes for the establishment of an imperial Court of Appeal” (*Ib.* p. 30).

*Colonial Conference of 1902.* — At the Colonial Conference of 1902,

“the subject of an imperial Court of Appeal was brought up by Sir E. Barton with the view of ascertaining how far the other Prime Ministers were satisfied with the results of the special conference on the question held in 1901, and on finding that there was general acquiescence in the result, he did not press the matter.”

*Colonial Conference of 1907.* — At the Colonial Conference of 1907, Mr. Deakin (Australia), taking up Mr. Chamberlain’s abandoned idea, moved

“that it is desirable to establish an imperial Court of Appeal.”

He complained that nothing had been done since the 1901 Conference to strengthen the Judicial Committee:

“Since those events the government and, I think, the great majority of the Parliament and people of Australia have not altered their attitude upon this question. They are no more contented with the present condition of appeal cases than they were in 1900 or 1901. Nor are their sentiments likely to alter after the judgment given lately in an Australian case, in which two matters of vital importance came before the consideration of the Judicial Committee.

<sup>1</sup> See “Correspondence relating,” etc., p. 24.

"We are aware of the special manner in which this court is constituted. Attention has been called to that for many years. During the Australian convention, which resolved upon proposals restricting the appeals to the Judicial Committee of the Privy Council, that was one of the grounds upon which a very decided view was taken. Although alterations have been made from time to time and decided improvements of late, it is evident that even regarded in its present condition, the system adopted is by no means satisfactory to us, nor, I think, is it satisfactory to many other than Australian litigants" ("Proceedings," p. 202).

Dr. Jameson (the Cape) said that "one final court appeals to us very much," but urged the establishment of

"a final Court of Appeal in South Africa for all the various states, so that our Supreme Court of Appeal would be a final Court of Appeal, except that it might be put into the statute by which it is created that on certain subjects — possibly on relations between the various states, and so on — there might be permitted an appeal to the Privy Council by permission of that Supreme Court. Those cases would be very few. So really it would be a final Court of Appeal so far as we are concerned, except in special cases which would be laid down. At the same time, I would add that the prerogative of the King — the right of every citizen of the British Empire to appeal to the King — must be carefully safeguarded; but that would practically not be used, because I understand, supposing the right of appeal was refused in a particular case by the Appeal Court to the Privy Council and an individual still wished to go to the Privy Council, as his right is, of course, the practical point is that if he won his case or lost it, he would still have to pay all the costs, which would be a considerable deterrent to any one taking that extreme action" (*Ib.* pp. 207, 208).

General Botha (Transvaal) also desired a Court of Appeal for South Africa. On his motion it was resolved:

"(1) That when a Court of Appeal has been established for any group of colonies geographically connected, whether federated or not, to which appeals lie from the decisions of the Supreme Courts of such colonies, it shall be competent for the legislature of each such colony to abolish any existing right



of appeal from its Supreme Court to the Judicial Committee of the Privy Council.

“(2) That the decisions of such Court of Appeal shall be final, but leave to appeal from such decisions may be granted by the said court in certain cases prescribed by the statute under which it is established.

“(3) That the right of any person to apply to the Judicial Committee of the Privy Council for leave to appeal to it from the decision of such Appeal Court shall not be curtailed” (*Ib.* p. 209).

Sir Wilfrid Laurier said:

“So far as Canada has any concern we have an appeal to the Judicial Committee of the Privy Council; and it has, as a general rule, given very great satisfaction. I do not know that all its decisions have been accepted. There are few courts which have not their decisions criticized within twenty-four hours, but as a rule the decisions of the Privy Council, so far as concerns Canada, have been eminently satisfactory. At the same time everybody must recognize that the constitution of the court is not, perhaps, quite in accordance with the modern age and tendencies. It seems to me that the Judicial Committee of the Privy Council should be remodelled if it is to be maintained” (*Ib.* p. 211).

Sir Wilfrid had

“no objection to an imperial Court of Appeal. I do not care what name you call it, whether it is the House of Lords, or the Judicial Committee, or any other body, it matters not very much” (*Ib.* p. 224).

Sir Wilfrid said that the important question was, not the establishment of a Court of Appeal or its name, but its jurisdiction, and where it got that jurisdiction. Let the colonies, in the exercise of their right of self-government, have the power to declare in what cases, if any, appeals shall go beyond Canada — that is the important point, and the point upon which colonial assertion is necessary. He said:

“The question of jurisdiction will always be, so far as this court is concerned, the one great difficulty. I am sure that the

imperial government have no desire to impose their views as to what should be the jurisdiction. *This should be left to the provinces themselves to determine.* The Judicial Committee of the Privy Council have always decided — and it is a matter of common everyday occurrence — that the King has retained his prerogative of allowing any one who chooses to take an appeal before the Judicial Committee of the Privy Council. That appeal, which is an appeal of favor, has perhaps passed the day of its utility, and if I have any opinion to proffer upon this question, it would be that *all matters of jurisdiction should be relegated altogether to the parties interested — the provinces or the Parliaments — to determine whether and why<sup>1</sup> there should be an appeal or not*” (*Ib.* p. 211).

The Lord Chancellor dissented from Mr. Deakin’s proposal:

“I think our people would be rather surprised and startled, remembering that this is a new subject to us altogether, if we were to commit ourselves to the idea of an imperial Court of Appeal, which means one court for the whole of the British Dominions, and a reconstruction of the House of Lords, and the Privy Council” (*Ib.* p. 223).

Mr. Deakin’s motion for the establishment of an imperial Court of Appeal was not put to a vote, and the whole incident would have had little importance but for the concurrence of the Lord Chancellor in Sir Wilfrid’s point. He said:

“My view is, and I think we shall all agree in it, that in those circumstances all that can be done is to recognize and act unreservedly upon the principle of autonomy; that *each integral unit of His Majesty’s Dominions should govern itself in the matter of appeals*; that one should not necessarily be the same as any other; but each should govern itself. I can say this, that as far as His Majesty’s government is concerned, *we most cordially fall in with that and will do all we fairly can for the purpose of furthering the views of all concerned*” (*Ib.* p. 214).

“Still, if Australia, for example, or any other part of the British Empire, desire that their cases should be heard, not merely by the judges of the United Kingdom with the assistance of their own, but also by judges from other parts of the

<sup>1</sup> Probably a misprint for *when*.

British Dominions, the Cape, Canada, India, and the Crown colonies, and those countries are willing to send us the judges, we can have no objection. It seems to me to be a part of the autonomy of Australia or Canada, for example, that if they wish it done *they are the persons to decide whether it should be done. It is part of what, in the familiar language of the constitution, is called the order and good government of the colony*" (*Ib.* p. 217).

"As regards the last resolution, it says: 'That much uncertainty, expense, and delay would be avoided if some portion of His Majesty's prerogative to grant special leave to appeal in cases where there exists no right of appeal were, under definite rules and restrictions, delegated to the discretion of the local courts.' I think that is quite right. It is so in India. It is regulated by codes of civil procedure, and it can be regulated by your own Parliament. You may pass in the Cape, if you like, an Act of Parliament; or it may be done, and has been done by Orders-in-Council. If you should prefer it should be done by Orders-in-Council, it would be perfectly easy to do it" (*Ib.* p. 219).

"May I turn now to the other supplementary points Dr. Jameson has given us? I think his general object is the establishment of a final Court of Appeal in South Africa, with certain restrictions upon the right of appeal from South Africa to the Privy Council, *which is obviously a matter for the South African colonies to determine for themselves.* If they pass their own Act, they can set up their own Court of Appeal in South Africa, unless they like to invoke the machinery of the imperial Parliament by asking the imperial Parliament to do it. I do not know whether they would or not" (*Ib.* p. 221).

"It really comes to this: You would set up your own court for all the self-governing colonies in South Africa — and probably the Orange River colony will have a constitution in the course of a few weeks — a South African court in South Africa. That would be your work. If you wanted the auxiliary help of the imperial Parliament for other purposes, it may be constitutional and the most convenient way of doing it. I, for my part, greatly hope that, however the functions of the Privy Council may be restricted, the connection will not be severed between the Privy Council and the courts either in South Africa or elsewhere. *But every self-governing portion of His Majesty's Dominions has its own right to regulate its own affairs and to do as it thinks fit in regard to that*" (*Ib.* p. 221).

Opinion in Canada as to the advisability of appeals to the Privy Council was thus referred to by Sir Wilfrid:

"I may say that in my country the views of the people are not all in accord as to the retention of that appeal. Some jurists have maintained that any country ought to be able to interpret its own laws; that is to say, the Parliament which creates the laws should be the Parliament to create the tribunal to interpret those laws. There is a great deal of force undoubtedly in that view. On the other hand, there are some jurists of equal eminence who believe that taking us as we are at the present time, a part of the British Empire, in which so many questions of imperial interests must necessarily arise even in the lowest courts, it would be a good feature to retain the present appeal to the Judicial Committee of the Privy Council" (*Ib.* p. 210).

It is difficult to know what are the "questions of imperial interest" to which Sir Wilfrid alluded. It is indeed very difficult to recall a single case appealed from Canada to the Privy Council which had any imperial significance. Opinion in favor of the appeal comes not from that source, but from two others:

1. The imperial "link" idea.
2. Dissatisfaction with the Canadian Supreme Court.

One of these implies national subjection; the other national incompetence. Neither, happily, is irremovable.

*Summary.* — Summing up, we may say:

1. The Judicial Committee of the Privy Council is not "the foot of the throne." It is a court constituted by various Acts of Parliament.
2. It is not a "powerful link," nor a link of any kind, "between the colonies and the Crown of Great Britain."
3. It is a badge of colonial subjection and incompetence, imposed not by the Crown but by imperial legislation.
4. In 1895 statutory provision was made for the appointment to the Judicial Committee of judges from some of the colonies.

5. The statute has had little effect, owing to lack of colonial coöperation.

6. Mr. Chamberlain's proposal for "a Court of Appeal for the whole Empire," was withdrawn by himself.

7. Mr. Chamberlain's proposal to meet what he called "the legitimate desire of the colonies for more effective and continuous representation on the Judicial Committee" by appointing from amongst colonials

"four additional Law Lords with seats in the House of Lords as well as on the Judicial Committee,"

was declined by the colonies.

8. The United Kingdom has declared, through the Lord Chancellor at the Colonial Conference of 1907,

"that each integral unit of His Majesty's Dominions should govern itself in the matter of appeals. . . . Every self-governing portion of His Majesty's Dominions has its own right to regulate its own affairs, and to do as it thinks fit in regard to that."

That is all that Canada wants. That is judicial independence.

## IMPERIAL SURTAX ON FOREIGN IMPORTS

THE proposal of Mr. Hoffmeyer of Cape Colony, at the Colonial Conference of 1887, excited the interest and enthusiasm of those members of the Imperial Federation League who afterwards emphasized "defence" as the principal object of imperialistic endeavor. Although crude enough and not believed, even by Mr. Hoffmeyer, to be either immediately practicable or likely at any time to be free from difficulty and objection, the suggestion was seized upon by many Imperialists who urged its adoption as the ready solution of imperial problems and as the bond which would secure the effective combination of all British states. Discussion soon demonstrated its utter impracticability, and it might well have been left unnoticed in this volume but for its revival in somewhat altered form by Mr. Deakin (Australia) at the Colonial Conference of 1907. Mr. Hoffmeyer proposed

"to discuss the feasibility of promoting closer union between the various parts of the British Empire by means of an imperial customs tariff, the revenue from such tariff to be devoted to the general defence of the Empire."<sup>1</sup>

The idea was that to all local customs duties there should be added a certain percentage to form an imperial fund applicable to imperial defence.

Long after this proposal of an imperial surtax had been generally forgotten, Mr. Deakin revived it, with a view, however, of providing a fund, not for defence, but for developing imperial trade, etc. His resolution was as follows:

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<sup>1</sup> "Proceedings of the Conference," p. 463.

“This Conference recommends that in order to provide funds for developing trade, commerce, the means of communication, and those of transport within the Empire, a duty of one per cent. upon all foreign imports shall be levied, or an equivalent contribution be made by each of its legislatures. After consultations between their representatives in conference, the common fund shall be devoted to coöperative projects approved by the legislatures affected, with the general purpose of fostering the industrial affairs of the Empire so as to promote its growth and unity” (*Ib.* p. 443).

In explanation he said:

“If we can agree at once that there shall be such a fund and fix its amount, that would be a first step to imperial coöperation. The existence of that fund would make it imperative that there should be from time to time consultations of a business character as to how that fund should be applied, and how the respective portions contributed by each shall be arranged. It would have to be absolutely under the control of the legislatures, but there would be a fund and full consideration from time to time as to how it could be most fruitfully applied. The legislatures would have to be satisfied as to its application in each instance” (*Ib.* p. 446).

Mr. Lloyd George (President of the Board of Trade), referring to the fact that Mr. Hoffmeyer’s proposal was that the money should be applied not to trade and means of communication but to imperial defence, said:

“If imperial defence were part of the scheme, it would be an admirable business proposition for us, because the contribution of the colonies in proportion to population is something like one-third of ours. We, at the present moment, are contributing about £33,000,000 to the imperial navy. I forget what the colonies are subscribing; it is something like half a million. So, as a business proposition, it would be a very admirable one for us, because, if the money is to be brought into a general fund and we are to divide it in these proportions, we should get about seven or eight millions of money out of it toward imperial defence. But that I do not gather to be Mr. Deakin’s idea, which is that this money should be spent purely for the

## IMPERIAL SURTAX ON FOREIGN IMPORTS 249

purpose of improving transport communication and cables, and matters of that kind" (*Ib.* pp. 513, 514).

For such expenditure Mr. Lloyd George said that the proposal was an unfair distribution of burdens:

"This is how it works. We are to contribute £4,500,000; the self-governing colonies are to contribute, all of them put together, under £600,000. I said yesterday we should have to put down £5 for every £1 the colonies put down. I was wrong. We should have to put down £7 10s. for every £1 provided by the colonies" (*Ib.* p. 515). "I do not think that the thing is workable for a moment" (*Ib.* p. 516).

How unworkable it was, appeared from Mr. Deakin's reply:

"The obligation on each party would be to set apart whatever sum was mutually agreed upon for imperial purposes for a given period, or until the arrangement was altered by consent. That would be binding for the period named, but whether any or all of that fund shall be applied, to what purpose it shall be applied, and in what proportion as compared to the other contributors it shall be applied, would rest wholly under the control of the legislature concerned. So that this proposition would do nothing more, if adopted, than *indicate one means by which revenue might be raised* for imperial purposes by all the dominions, unless they chose to substitute equal subventions; I do not put it any higher than that. I said this or some similar proposal would give you an imperial fund for business purposes that would be dealt with in a businesslike way.

"I have submitted this in order to see if we can discover some means by which an imperial fund may be raised for imperial purposes, without diminishing in any way the self-governing powers of the different dominions" (*Ib.* p. 517).

Sir Wilfrid Laurier said:

"I come now to the second part. You want to create an imperial fund. If Mr. Deakin permits me with all deference to say so, this is a very hazy proposition, to create a general fund for certain purposes, indefinite, undetermined, and as to which we shall have to cudgel our brains as to how to employ the money thus raised" (*Ib.* p. 519).



## 250 IMPERIAL SURTAX ON FOREIGN IMPORTS

"If there is anything which is true in constitutional British government, it is this, that you do not provide money in advance for anything. Your proposal is to create a general fund and then you find how you are to apply it afterwards. If there is an object to be served, or work to be done, or something of the kind which requires money, then we find the money; but your scheme proposes that we should find the money, in advance.

"I hope before we separate we can find an actual scheme on which we can ask the contribution of the British government, and all or some of the governments here represented — some big scheme of communication amongst ourselves" (*Ib.* p. 527).

Sir Joseph Ward (New Zealand) said:

"The more I think of it, the more I do not like the idea of a surtax for more reasons than one" (*Ib.* p. 519, and see p. 353).

Mr. Winston Churchill (Under-Secretary of State for the Colonies) said:

"Having a fund and then looking for objects to spend it on was pithily described the other day as finding a biscuit in the street and then buying a dog to give it to" (*Ib.* p. 521).

Sir Robert Bond (Newfoundland) said:

"I am sorry that I cannot support the resolution proposed by Mr. Deakin" (*Ib.* p. 522).

This was the fourteenth day of the Conference, and Mr. Moore (Natal), evidently disappointed at the lack of progress in imperialism, said:

"Lord Elgin and gentlemen, we have been considerably edified by the sympathy that has been extended to us by the imperial government, and the promise of what we may expect in the furtherance of our imperial ideas. But I think it would be greatly to our advantage in bringing about something in the shape of some fruit as regards this Conference, if the imperial government would be a little more candid and let us know, in some practical way, the steps they would take to bring about the object we all have in view. I am loath to vote against a proposition of this sort, which has at any rate a practical

ring about it with respect to providing a common fund; but when the government meets us and tells us they have a great deal of sympathy for what we are trying to do, and do not tell us they have anything behind which they may suggest before we break up, I think it would be in the interest of all if they would give us some indication, in a practical way, of what they do propose or would be prepared to consider. We have tried in various ways, but we have been met by refusal, certainly, again I repeat, in a very sympathetic way. But that does not help us. We are here for business and to promote our common interests, and we do want something tangible, if possible, to take back to our colonies. I do hope before this resolution is put that Mr. Lloyd George will indicate some way."

MR. LLOYD GEORGE. "What have you proposed, except something that would involve a change in our fiscal system? What practical proposals have you made that we have refused?"

MR. MOORE. "I am not arguing that point, but we have brought forward proposals that have not been acceptable to the home government, and the government have, at the same time, told us they are very kindly disposed toward us, and that in some way they would be only too glad to meet us if it fell in with the views of the imperial government. Will the imperial government tell us how, in some practical way, we can decide on some common resolution?"

MR. LLOYD GEORGE. "I thought we had done so."

Mr. Deakin agreed with Mr. Moore:

"But it does appear to me, as Mr. Moore very well put it, that we are likely to separate without having come to practical conclusions. I thought it was wise, and have not altered my opinion that it was necessary, to submit some broad proposition in order that we might learn from the members of the government of the United Kingdom, whether they had in their minds any scheme for imperial action at all, or for an imperial fund, other than the separate schemes which may be proposed from time to time for a steamship service, or a cable service, or anything of that character. I have not been able to elicit even that. On the contrary, I have been met with the usual opposition criticism which we hear so often in Parliament upon a proposition of this sort, when the object is to hurry it conveniently out of the way. I do not object to that. I am sufficiently

## 252 IMPERIAL SURTAX ON FOREIGN IMPORTS

accustomed to it. But I also appreciate its motives. If the representatives of the government here had really in their minds any scheme at all, this would have been the time when they could have triumphantly produced it and explained it. I do not mean that they would have brought down details; but they ought to have submitted a plan showing us some possibility of an advance upon our present casual, dis-united methods of combining for particular purposes here and there. That imperfect method exists and will exist. We do not lose it because we consider whether it cannot be improved upon. My object was to insist upon the need for improvement and only to suggest one means for its improvement. I was not taking a course foreign to the purpose of this Conference, but strictly in line with it. We have not succeeded in getting consideration for preferential trade. I wanted to know if we could not get consideration for something else which did not involve the fiscal principle at all — some method of union for united action. This proposition may be as faulty as you please. I drew it in terms sufficiently loose on purpose. It has at least made our position here quite plain" (*Ib.* p. 524).

"I only say the attitude of ministers shows they have not made up their minds on this question at all. They simply say: 'Bring forward a particular proposal, and we will look at it.' We knew that before. That is a very admirable attitude, the purely negative attitude they always have taken and always will take, and the attitude other ministers in the same quandary always will take — I am not finding fault with that. I have asked, 'Can we do anything more?' The answer is, 'We cannot do anything more.'"

MR. LLOYD GEORGE. "I never said anything of the sort. To bring forward a proposal which will involve our contribution of four and a half millions as against your £100,000, with no scheme, no plan of spending, not a glimmer of an idea of what the money is to go to, but simply saying, 'We are to pool it, and until we can find something to spend it on, let it roll up' — if that is a scheme for a great commercial Empire, I think it is a scheme *pour rire*, if I may say so" (*Ib.* pp. 524, 525).

Somewhat pressed, Mr. Lloyd George proposed the following resolution:

"This Conference recommends that in order to develop trade, commerce, the means of communication, and those of transport

within the Empire, it is desirable that some means should be devised for systematic consultation between the members of various parts of the Empire, for the purpose of considering coöperative projects for the general purpose of fostering the individual forces of the Empire so as to promote its growth and unity" (*Ib.* pp. 525, 526).

Mr. Deakin had the last word:

"Please understand that if this resolution of mine were rejected by every individual member of the Conference, I should deplore our divergences, but it would not in any way depress me. I should take the benefit of all the criticism, not regretting that I had brought the matter forward. My faith is that it is better to make a mistake attempting to frame a practical proposal than to do nothing at all. If this was a mistake, and I am satisfied it was not, I have at least succeeded in bringing the question right home. We are not here to score verbal victories by carrying resolutions, or to feel defeated if we do not carry them, but we are here to make some advance by the frank discussion of those imperial possibilities. I am obliged to the minister for getting beyond the accidents of my proposal to its essence at the close" (*Ib.* p. 529).

It was on the same day that Dr. Smartt said with reference to objection to naval defence:

"I think it is a great pity that we do not pass something. We have done so much in the way of pious affirmation, that I am anxious we should do something of a practical character" (*Ib.* p. 542).

Mr. Deakin's motion was not pressed to a vote. The next day Sir Wilfrid Laurier proposed imperial financial support for the "All-Red Route" — a story for a later volume than this.



## IMPERIAL PREFERENTIAL TARIFFS

TERMINATION by the United States, in 1866, of the reciprocity treaty of 1854 disorganized Canadian trade. Persistent efforts were made by the government of Sir John A. Macdonald to renew it, but without success. Upon accession to power of the Liberals in 1874, the Hon. George Brown was sent to Washington with temporarily happy results — an arrangement was made with the American Executive, but the Senate declined to approve it; it never became effective.

Sir John A. Macdonald, on his return to power in 1878, adopted a new attitude. Declaring that there ought to be either "reciprocity of trade or reciprocity of tariffs," and that our neighbors had refused the former, he induced Parliament to impose protective duties, at the same time offering to the United States, by a clause in the statute, a certain measure of trade reciprocity. The offer was not accepted. Canada might do as she pleased with her tariffs; her markets were small and her commercial ill-will negligible.

Then came the beginnings of imperial preferential tariffs. Canada, said Sir John, was part of an Empire with markets the largest in the world. Ought the United States to be permitted to exclude, by import duties, products from one part of the Empire, and yet be allowed to send goods into other parts of it without any duties at all? Ought not "reciprocity of trade or reciprocity of tariffs" to become an imperial maxim? In December, 1885 (at London), Sir John formulated his proposal:

"Commercially, British federation may be achieved on a basis of give and take. If you will give colonial produce such

immunities as you give to no foreign nation, I will commit myself to the expression of belief that the colonies will give British goods, and only British goods, preferential treatment."<sup>1</sup>

By 1887, the date of the first Colonial Conference, the idea of preferential tariffs within the Empire had been much discussed. Some of the colonies had adopted protective tariffs, and all of them were keenly alive to the immensity of the value of the markets of the United Kingdom.<sup>2</sup> On the other hand, metropolitan faith in free trade appeared to be as unalterable as its faith in Christianity, and as little liable to impairment as the Grampians. Listen to Lord Salisbury (the British Prime Minister) at the Conference, and as you listen remember that within ten years he himself, under colonial pressure, acquired "notions with regard to fiscal policy" very different from those which he then held:

"I fear that we must for the present put in the distant and shadowy portion of our task, and not in the practical part of it, any hope of establishing a customs union among the various parts of the Empire. I do not think that in the nature of things it is impossible. . . . But the resolutions which were come to in respect of our fiscal policy forty years ago set any such possibility entirely aside, and it cannot be now resumed until on one side or the other very different notions with regard to fiscal policy prevail from those which prevail at this moment."

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<sup>1</sup> Quoted in pamphlet, "The Empire in Conference," second to last page.

<sup>2</sup> The Premier of Australia (Mr. Deakin), for example, said at the Colonial Conference of 1907: "So far as Australia is concerned, the advantages of recognized preferential treatment from Great Britain are too obvious to require demonstration" ("Proceedings," p. 248); for, shut off by protective tariffs from foreign countries, "the question that is coming home to Australia is: Can the commonwealth without preference in the British markets retain even its present trade?" "If we are to expand our markets and to place ourselves beyond the reach of foreign aggression, preferential treatment must be obtained" (*Ib.* p. 249). "For the last time I repeat our realization, that preference begins as a business operation to be conducted for business ends" (*Ib.* p. 263).

Upon the other hand, listen to some of the colonial speeches. Sir Samuel Griffith (Queensland) said:

“The question I should like to submit for consideration to-day is . . . whether it should not be recognized as part of the duty of the governing bodies of the Empire to see that their own subjects have a preference over foreign subjects in matters of trade.”

Mr. Deakin (Victoria) advocated preferential trade as “one of the best, and one of the few, means of drawing closer the bonds of unity, and increasing, as Sir Samuel Griffith phrased it very properly, the solidarity of the Empire.”

Sir John A. Macdonald had not, however, abandoned all hope of new reciprocity arrangements with the United States, and in 1891, announcing that negotiations were in progress, he dissolved Parliament in order that the government might obtain sufficient popular authority to proceed to a treaty.<sup>1</sup> Sir John's political opponents denied the existence of negotiations; declared that an agreement such as he hoped for could not be made; and advocated “unrestricted reciprocity” with the United States — reciprocity not only in certain, but in all, articles of trade. An incident in the election campaign enabled Sir John to appeal strongly to British loyalty; he carried the country; “unrestricted reciprocity” was dropped by the Liberals; and Sir John, failing to make his arrangement with the United States,<sup>2</sup> turned once more to imperialism.

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<sup>1</sup> See Can. Sess. Pap., 1891, Vol. I, pp. 22, 42.

<sup>2</sup> That imperial preference was advocated because of the failure of negotiations with the United States is clear. As early as May 3, 1872, Sir John A. Macdonald said in the House of Commons (Hansard, p. 297): “It is a matter of history that all their exertions failed, and after their failure, by the general consent — a consent in which I believe the people of Canada were as one man — we came to the conclusion that it would be humiliating to Canada to make any further exertions at Washington or to do anything more in the way of pressing for the renewal of that



Two formidable difficulties stood in his way: (1) Treaties with Germany and Belgium prevented the colonies charging lower duties on the productions of the United Kingdom than were charged upon similar productions of Germany and Belgium; and, by the operation of the most-favored nation clauses in other treaties, the benefit of this inhibition was extended to various other countries. (2) The constitution of the Australian colonies forbade all preferential tariffs, except amongst themselves. The second of these objections was removed by legislation. But how were the colonies to be freed from the treaties?

Representations and requests to the imperial government were put in Colonial Office pigeon-holes, and the agents of all the self-governing colonies went in deputations to the Board of Trade without effect. Lord Salisbury could agree that the treaties were unfortunate and very absurd, but their denunciation was unthinkable. Using, however (June 17, 1891), such language as the following, it was evident that he was making some progress:

“With respect to these two unlucky treaties (with Belgium in 1862 and Germany in 1865, precluding British colonies from admitting British goods on more favorable terms than foreign goods) that were made by Lord Palmerston’s government some thirty years ago, I am sure the matter of the relation of our colonies could not have been fully considered. We have tried to find out from official records what species of reasoning it was that induced the statesmen of that day to sign such very unfortunate pledges; but I do not think they had any notion that they were signing any pledges at all. I have not been able to discover that they at all realized the importance of the engagements upon which they were entering.”

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instrument, and the people of this country with great energy addressed themselves to find other channels of trade, other means of developing and sustaining our various industries, in which I am happy to say they have been completely successful.”

On September 30, 1891, the Canadian House of Commons joined with the Senate in an address to Her Majesty requesting her

“to take such steps as may be necessary to denounce and terminate the effect of the provisions referred to as well in the treaties with the German zollverein and with the kingdom of Belgium as with every other nation.”

On April 25, 1892, the Canadian House of Commons made its first official offer to the United Kingdom of preferential tariffs. It resolved:

“That if and when the Parliament of Great Britain and Ireland admits Canadian products to the markets of the United Kingdom upon more favorable terms than it accords to the products of foreign states, the Parliament of Canada will be prepared to accord corresponding advantages by a substantial reduction in the duties it imposes upon British manufactured goods.”

On June 25, 1892, the United Empire Trade League, upon motion of Sir Charles Tupper, unanimously adopted the following resolution:

“That this convention impresses upon the Empire the unlimited productive resources of the world-wide realms under the British flag, and their full ability, on the expiration of adequate notice for development, to supply the needs of the mother country and the other portions of the Empire in every substance required by any British subject, independently of foreign nations. It urges the concentration of all patriotic efforts in Britain and Greater Britain upon pressing this home on the minds of the people, with a view to the extension of inter-British trade, the territorial security of Her Majesty's possessions, and the personal advantage of each individual.”

In September, 1893, Mr. Mackenzie Bowell (then Minister of Trade and Commerce) visited Australia, and succeeded in arranging for a conference to be held in Ottawa during the succeeding year to discuss trade questions.

It met in June, 1894. The Earl of Jersey represented the British government, and delegates were present from Tas-

mania, New South Wales, Cape Colony, South Australia, New Zealand, Victoria, and Queensland. The following resolutions were passed:

"1. That provision should be made by imperial legislation, enabling the dependencies of the Empire to enter into agreements of commercial reciprocity, including power of making differential tariffs with Great Britain or with one another.

"2. That this Conference is of opinion that any provisions in existing treaties between Great Britain and any foreign power, which prevent the self-governing dependencies of the Empire from entering into agreements of commercial reciprocity with each other or with Great Britain, should be removed.

"3. Whereas the stability and progress of the British Empire can be best assured by drawing continually closer the bonds that unite the colonies with the mother country, and by the continuous growth of practical sympathy and coöperation in all that pertains to the common welfare.

"And whereas this coöperation and unity can in no way be more effectually promoted than by the cultivation and extension of the mutual and profitable interchange of their products: (A) Therefore resolved: That this Conference records its belief in the advisability of a customs arrangement between Great Britain and her colonies by which trade within the Empire may be placed on a more favorable footing than that which is carried on with foreign countries.

"4. Further resolved: That until the mother country can see her way to enter into customs arrangements with her colonies, it is desirable that, when empowered so to do, the colonies of Great Britain, or such of them as may be disposed to accede to this view, take steps to place each other's products in whole or in part on a more favored customs basis than is accorded to the like products of foreign countries.

"5. Further resolved: That for the purposes of this resolution the South African Customs Union be considered as part of the territory capable of being brought within the scope of the contemplated trade arrangements."

All the resolutions were carried unanimously, except the clause marked "A," which was opposed by three of the Australasian representatives. Earl Jersey, in reporting the proceedings to his government, said:

"Whilst, therefore, laying before your Lordship the views expressed and the resolutions passed, I feel unable to go further than to press earnestly the advisability of giving a favorable consideration to the unanimous request of the Conference for the removal of any restriction, treaty or statutory, which stands in the way of inter-colonial trade."

The resolutions met with little sympathy from the imperial government. In a despatch from the Marquis of Ripon (Colonial Secretary) to the Governor-General (June 28, 1895) the whole question of preferential tariffs was elaborately argued and heartily condemned:

"A consideration of these practical difficulties and of the more immediate results above indicated of a system of mutual tariff discrimination, has convinced Her Majesty's government that, even if the consequences were confined to the limits of the Empire, and even if it were not followed by changes of fiscal policy on the part of foreign powers unfavorable to this country, its general economic results would not be beneficial to the Empire. Such duties are really a weapon of commercial war, used as a means of retaliation, and inflicting possibly more loss on the country employing it than on the country against which it is directed, and which would not be likely to view them with indifference.

"Foreign countries are well aware that the colonies differ in their fiscal policies and systems from the mother country and each other, and if a policy of the kind advocated were adopted, our foreign rivals would not improbably retaliate, with results injurious to the trade of the whole Empire.

"I have dealt with this question at some length, because the strong support which the proposal met with from the majority of the representatives at the Conference entitles it to the fullest consideration, and renders it desirable to set forth the reasons which have satisfied Her Majesty's government that it would fail to secure the object aimed at: namely, the stability and progress of the Empire."

As to preferential tariffs between the colonies, with which the United Kingdom had less to do, the Colonial Secretary said:

"It must be remembered, however, that the primary object of a differential duty is a diversion rather than an increase of trade, and that as the proportion of the external trade of most of the colonies which is carried on with foreign countries is insignificant compared with that carried on with the mother country and other parts of Her Majesty's Dominions, it will be difficult for one colony to give a preference in its markets to the trade of another solely at the expense of the foreigner and without at the same time diverting trade from the mother country or from sister colonies which may not be parties to the arrangement.

"Serious injury might thus be inflicted on the commerce of a neighboring colony, and unfriendly feelings generated which might provoke retaliation, and would in any case estrange the colonies concerned in a manner which would not conduce to the great aim which the Conference had in view throughout.

"Any agreement for reciprocal preferential treatment between two colonies will, therefore, require careful consideration in regard to its probable effect on the commerce of the rest of the Empire, and although Her Majesty's government have the fullest confidence that the loyalty and good feeling happily prevailing between the various parts of the Empire would prevent one colony seeking an advantage to itself which could only be gained at the serious prejudice of other parts of Her Majesty's Dominions, it is impossible for them to relieve themselves of their responsibility in regard to the general interests of the Empire in such a matter."

Denunciation of the treaties, the Colonial Secretary said, would be bad for the United Kingdom:

"The denunciation of the treaties with Belgium and Germany would thus expose the trade of the United Kingdom to some risks, and might possibly be followed by a loss of some part of the export trade to those countries, probably of some portion of it which consists in the distribution of foreign and colonial produce. With the denunciation of the treaties, the commerce of the Empire with these countries would have to be carried on under fiscal conditions subject to constant changes and fluctuations, or at all events without that permanence and security which is of primary importance to successful and profitable interchange. It would be extremely difficult, in existing circumstances, to negotiate new treaties of a satis-

factory character at an early date, and the loss which might in the meantime result to a trade of forty-one millions sterling would, perhaps, prove to be irreparable. On the other hand no scheme has been proposed which foreshadows any precise advantages to be secured to the export trade, amounting to thirty-five millions sterling, from the United Kingdom to the British colonies, in the event of the termination of these treaties."

It would be bad, too, for the colonies:

"I may further observe that the self-governing colonies themselves would lose any advantage they now derive from their inclusion in the German and Belgian treaties; since, if those treaties were denounced, both countries would, in view of the circumstances attending the passing of the resolutions of the Colonial Conference and in view of the high tariffs existing in many of the colonies, no doubt decline to include the British colonies in any new treaty that might be negotiated; and considering the small amount of their trade, it would be very difficult for them, if in an isolated position, to secure advantageous terms except by very heavy concessions.

"In these circumstances, *as preferential arrangements in which this country should be included cannot, under present conditions, be considered a matter of practical politics*, and as the clauses in the treaties do not, in the view of Her Majesty's government, prevent intercolonial preferential arrangements, Her Majesty's government consider that it would not be prudent to contemplate the denunciation of the treaties at the present moment, bearing in mind that this could always be done on twelve months' notice, if circumstances should hereafter show it to be desirable."

The Colonial Secretary, moreover, in good old Downing-Street fashion, intimated to the colonies that there were certain lines of preferential schemes which he as guardian "of the common interests of the Empire" would not tolerate:

"Further, Her Majesty's government regard it as essential that any tariff concessions proposed to be conceded by a colony to a foreign power should be extended to this country and to the rest of Her Majesty's Dominions.

"As I have already pointed out, there are but few nations

with which Her Majesty's government have not treaties containing most-favored nation clauses, and to most of these treaties all or some of the responsible-government colonies have adhered. Any tariff advantages granted by a colony, therefore, to a foreign power would have to be extended to all powers entitled by treaty to most-favored nation treatment in the colony, and Her Majesty's government presume that no colony would wish to afford to, practically, all foreign nations better treatment than it accorded to the rest of the Empire of which it forms a part.

"In regard to the other side of the question, namely, as to the terms which a colony seeks from a foreign power, the considerations mentioned appear to require that a colony should not endeavor in such a negotiation to obtain an advantage at the expense of other parts of Her Majesty's dominions. In the case, therefore, of preference being sought by or offered to the colony in respect of any article in which it competed seriously with other colonies or with the mother country, Her Majesty's government would feel it to be their duty to use every effort to obtain the extension of the concession to the rest of the Empire, and in any case to ascertain as far as possible whether the other colonies affected would wish to be made a party to the arrangement. In the event of this being impossible, and of the result to the trade of the excluded portions of the Empire being seriously prejudicial, *it would be necessary to consider whether it was desirable, in the common interests, to proceed with the negotiation.*

"Her Majesty's government recognize, of course, that in the present state of opinion among foreign powers and many of the colonies as to different duties, and in a matter which, to some extent, would affect only a particular colony, they would not feel justified in objecting to a proposal merely on the ground that it was inconsistent in this respect with the commercial and financial policy of this country.

"But *the guardianship of the common interests of the Empire rests with them, and they could not in any way be parties to, or assist in, any arrangements detrimental to these interests as a whole. In the performance of this duty it may sometimes be necessary to require apparent sacrifices on the part of a colony, but Her Majesty's government are confident that their general policy in regard to matters in which colonial interests are involved is sufficient to satisfy the colonies that they will not, without good reason, place difficulties in the way of any arrange-*

*ments which a colony may regard as likely to be beneficial to it."*

That sort of assumption was possible just twelve years ago — was possible indeed during the succeeding reigns, at the Colonial Office, of Mr. Chamberlain and Mr. Lyttleton. The Colonial Conference of 1907 has given it a curious appearance of belated officious paternalism.

In 1895, then, we have the British Colonial Secretary declaring that

"preferential arrangements in which this country should be included cannot, under present conditions, be considered a matter of practical politics," and "that it would not be prudent to contemplate the denunciation of the treaties."

What more can Canada do?

Canada took a very curious course; but before relating it, let us note that while the Colonial Conference just referred to was discussing preferential trade within the Empire, Cecil Rhodes (an enthusiastic Imperialist) had succeeded in getting a clause placed in his new Rhodesian Charter which was almost certain to give the United Kingdom a preference there within a very short time. The clause provided that no British goods entering Rhodesia should ever be charged duties higher than those of the then Cape tariff; namely, nine per cent. The general tariff of the South African Customs Union (including Rhodesia) is now twelve per cent., but upon British goods entering Rhodesia it has necessarily remained at the lower rate. How Rhodes, in 1894, got John Bull to issue a charter under which his goods would get the benefit of a trade preference, has never been explained. Two years after that date even Mr. Chamberlain was still unconverted to the colonial notion of local protection and imperial preferences. In his speech of March 25, 1896, before the British Empire League, he said:



"But the principle which I claim must be accepted, if we are to make any, even the slightest progress, is, that within the different parts of the Empire, protection must disappear, and that the duties must be revenue duties and not protective duties, in the sense of protecting the products of one part of the Empire against those of another."

Canada, as we have said, took a very curious course. Thus far Parliaments, and conferences, and individuals had discussed the abstract question of preferences and had passed abstract resolutions — what would happen if a concrete statutory offer of preferential tariff rates were formally presented to British statesmen? Would they refuse it? Canada determined to try, and passed (1897) the statute 60, 1 Vic. c. 16, which provided that

"17. Where the customs tariff of any country admits the products of Canada on terms which, on the whole, are as favorable to Canada as the terms of the reciprocal tariff herein referred to are to the countries to which it may apply,<sup>1</sup> articles which are the growth, produce, or manufacture of such countries, when imported direct therefrom, may then be entered for duty or taken out of warehouse for consumption in Canada, at the reduced rates of duty provided in the reciprocal tariff set forth in schedule 'D' to this Act."

The reductions in schedule "D" were one-eighth of the regular tariff till June 30, 1898, and one-fourth of it after that date.<sup>2</sup> The United Kingdom became at once entitled to the benefits of this statute. What would it do?

Canada passed the statute just prior to the assembling of the Colonial Conference of 1897, and its effect was immediate. In his opening speech at the Conference, Mr. Chamberlain said:

<sup>1</sup> The United Kingdom's tariff was within that description.

<sup>2</sup> The statute of 61 Vic. c. 37 (1898) confined the preferences to the limits of the British Empire (for reasons mentioned by Mr. Chamberlain at the Colonial Conference of 1897; "Proceedings," p. 11); and the statute 63 Vic. c. 15 (1900) increased the preference from one-fourth to one-third of the general tariff.

“But that brings me to another question connected with commercial relations, and of great importance. I refer to the treaties at present existing between the mother country, acting on behalf of the colonies as well as of herself, and foreign countries. The question has been raised at various times in the shape of resolutions or suggestions from the colonies that certain treaties, notably a treaty with Germany and a treaty with Belgium, should be denounced. It should be borne in mind that that is for us a most important question. Our trade with Germany and Belgium is larger than our trade with all the colonies combined. It is possible that if we denounced those treaties Germany and Belgium would endeavor, I do not say whether they would succeed, but they might endeavor, to retaliate; and for some time, at any rate, our commercial relations with these two countries might be disturbed. Therefore a step of that kind is one which can only be taken after the fullest consideration, and in deference to very strong opinion both in this country and in the colonies. Now the question is brought to a practical issue, or may be brought to a practical issue, by the recent action of Canada. As all are aware, Canada has offered preferential terms to the mother country, and Germany and Belgium have immediately protested and claimed similar terms under these treaties. Her Majesty’s government desire to know from the colonies whether, so far as they are concerned, if it be found that the arrangements proposed by Canada are inconsistent with the conditions of those treaties, they desire that those treaties shall be denounced. If that be the unanimous wish of the colonies, after considering the effect of that denunciation upon them as well as upon us, because they also are concerned in the arrangements which are made by these treaties, then all I can say at the present time is that *Her Majesty’s government will most earnestly consider such a recommendation from the colonies, and will give to it the favorable regard which such a memorial deserves.*”

The “unanimous wish of the colonies” was expressed in the following resolutions:

“1. That the Premiers of the self-governing colonies unanimously and earnestly recommend the denunciation, at the earliest convenient time, of any treaties which now hamper the commercial relations between Great Britain and her colonies.

"2. That in the hope of improving the trade relations between the mother country and the colonies, the Premiers present undertake to confer with their colleagues with the view to seeing whether such a result can be properly secured by a preference given by the colonies to the products of the United Kingdom."

The treaties were forthwith denounced, Lord Salisbury in his notices saying that

"for many years past the British self-governing colonies have enjoyed complete tariff autonomy,"

and that the obnoxious provisions of the treaties

"constitute a barrier against the internal fiscal arrangements of the British Empire which is inconsistent with the close ties of commercial intercourse which subsist, and should be consolidated between the mother country and the colonies."

The treaties at last out of the way, the Canadian preferential tariff went into operation, and the other colonies commenced consideration and construction of similar tariffs. In 1902, Mr. Chamberlain began his great effort to convince the United Kingdom of the advantages of the Canadian system.

At the Colonial Conferences of 1902 and 1907 the following resolutions were passed:

"1. That this Conference recognizes that the principle of preferential trade between the United Kingdom and His Majesty's Dominions beyond the seas would stimulate and facilitate mutual commercial intercourse, and would, by promoting the development of the resources and industries of the several parts, strengthen the Empire.

"2. That this Conference recognizes that, in the present circumstances of the colonies, it is not practicable to adopt a general system of free trade, as between the mother country and the British Dominions beyond the seas.

"3. That with a view, however, to promoting the increase of trade within the Empire, it is desirable that those colonies which have not already adopted such a policy should, as far as their circumstances permit, give substantial preferential

treatment to the products and manufactures of the United Kingdom.

"4. That the Prime Ministers of the colonies respectfully urge on His Majesty's government the expediency of granting in the United Kingdom preferential treatment to the products and manufactures of the colonies either by exemption from, or reduction of, duties now or hereafter imposed."

PRESENT POSITION

In "Monthly Notes on Tariff Reform" for July, 1907, is the following summary of the present position of imperial preferential trade arrangements.

"Canada now grants a preference to the United Kingdom, India, Straits Settlement, Ceylon, New Zealand, Bermuda, British Guiana, British West Indies, and South Africa, on all goods, with the principal exceptions of alcoholic and distilled liquors, tobacco, malt and malt extracts, opium, a few iron manufactures, and sail-twine and canvas (of hemp or flax). The amount of preference granted is of varying amounts, from 2½ to 15 per cent., with an average of about 10 per cent. *ad valorem* (or about one-third of the general rates of duty).

"South Africa grants a preference to the United Kingdom, Canada, the Australian commonwealth, and New Zealand, on all goods except minerals, coffee and chicory, second-hand clothing, coal and coke, raw cocoa, rice, dates, matches, skimmed milk, mineral oils, onions and garlic, pills, spirits, sugar, tea, tobacco, and wine. On specific rates of duty the rebate varies according to the article, but is equivalent to about 3 per cent. *ad valorem*; on *ad valorem* rates of duty, the rebate allowed is 3 per cent. *ad valorem*.

"New Zealand grants preference to all British Dominions on various but mostly manufactured articles such as (i.) cement; (ii.) boots and shoes, glass, earthenware, and chinaware, hardware, paper, and fancy goods; and (iii.) iron (sheet, bar, or plate), rails, gas and oil engines, sail-cloth, canvas, and duck. Additional duties are imposed on certain foreign goods, viz., (i.) double the general duty on cement; (ii.) 50 per cent. of the general duty (i.e. an increase in most cases of 10 per cent. *ad valorem*); (iii.) certain goods on the free list subjected to a 20 per cent. *ad valorem* duty, remaining free when of British

production. To South Africa, New Zealand grants preference on all articles except spirits; the preference is of varying rates, but for the most part 25 per cent. less than the general rates of duty.

"The commonwealth of Australia grants a preference to South Africa on butter, cheese, hay and fodder, grain, jams and confectionery, leather, agricultural and mining machinery, meats, fish, poultry and game, preserved milk, timber, dried fish, fruits, feathers, spirits, sugar, tobacco, and wine; the preference is of varying rates, but for the most part about 25 per cent. less than the general rates of duty.

"In addition to these preferences which are actually in force, the commonwealth of Australia, according to a resolution passed on August 30, 1906, granted a preference to the United Kingdom on arms, ammunition, dynamite, bicycles, boots, shoes, clocks, watches, furniture, engines, paints and colors, pickles and sauces, cutlery and plated ware, manufactures of wood, paper-hangings, also paper bags and strawboard. It was proposed to increase certain existing tariff rates on goods not the produce of the United Kingdom to the extent of from 5 per cent. to 10 per cent. *ad valorem*. Certain specific rates were to be increased from 20 per cent. to 50 per cent. of the duty, whilst some free goods were to be subject to a duty of 10 per cent. *ad valorem* when not of United Kingdom production. That resolution has been reserved by the Governor-General for the signification of His Majesty's pleasure, in consequence of the stipulation that goods to enjoy preference must be imported direct in British ships manned by white labor."

That last sentence contains a reference to another subject upon which the United Kingdom and the colonials are much at variance. The British view was well represented by Mr. Asquith (the Chancellor of the Exchequer) when at the recent Conference (1907) he said:

"We should never under any circumstances accept here a preference granted to us only in respect of goods carried in ships in which the whole of our fellow-subjects in India were not allowed to serve. We could not possibly accede to that, and everybody here would say we would rather have no preference at all than preference limited by such a condition as that."<sup>1</sup>

<sup>1</sup> "Proceedings," p. 315.

At the ensuing session of the Australian Parliament the condition was eliminated and the various features of the tariff considerably changed.

Incidentally the British government itself has been caught by the trend in favor of protection and preferences. Reference has already been made to the clause in the Rhodesia Charter under which a preference is given to British goods. This fact was used as an argument at the Colonial Conference of 1907, and Dr. Jameson (Cape Colony) moved:

“That while affirming the resolution of 1902, this Conference is of opinion that as the British government, through the South African Customs Union which comprised the Basutoland and Bechuanaland Protectorates, do at present allow a preference against foreign countries to the United Kingdom, Canada, Australia, New Zealand, and all other British possessions granting such reciprocity, His Majesty’s government should now take into consideration the possibility of granting a like preference to all portions of the Empire on the present dutiable articles in the British tariff.”<sup>1</sup>

The British Parliament itself has made a commencement in protection and preferences, for with a view to encourage the growth of tobacco in Ireland, it has imposed an excise upon the Irish product of two shillings per pound, while retaining a duty of three shillings upon other tobacco.<sup>2</sup>

So rests for the present the story of imperial preferential tariffs. The next serious industrial depression in the United Kingdom may add to it another remarkable chapter, unless meanwhile, as is possible, the colonies have made other arrangements.<sup>3</sup> Already Canada has enacted an “Intermediate Tariff” — has made a statutory offer to countries other than the United Kingdom, of reductions in the British preference

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<sup>1</sup> “Proceedings,” p. 356.

<sup>2</sup> *Ib.* p. 346.

<sup>3</sup> See Dr. Jameson’s remarks, “Proceedings,” p. 356.

in return for reciprocal concessions. The effect of this offer was described in a British Board of Trade memorandum presented to the last Conference (1907):

*"The principal foreign competitors of this country in Canada are the United States, Germany, and France, and should at any time the intermediate tariff be applied to the imports from these countries, the preference accorded various British imports would, as a consequence, be diminished to such an extent as to injuriously affect our lead in some lines, and in others to increase that of our competitors."*<sup>1</sup>

Already has Canada made a treaty with France in pursuance of this statute.

*Summary.* — We may summarize what has been said as follows:

1. Termination of the reciprocity treaty with the United States (1854–1866) disorganized Canadian trade.

2. Efforts of both political parties in Canada to renew the treaty failed.

3. In 1878, Sir John A. Macdonald adopted a new policy: Reciprocity of trade or reciprocity of tariffs.

4. In 1885, Sir John, in a speech in London, made an informal offer of preferential trade with the United Kingdom.

5. Speakers at the Colonial Conference of 1887 advocated imperial preferences. Lord Salisbury thought it "shadowy."

6. In 1891, Sir John again endeavored to arrange reciprocity with the United States; announced that negotiations were pending; but was unable to arrive at an agreement.

7. In the same year, the colonies urged the imperial government to denounce the treaties which prevented imperial preferences. Lord Salisbury declined to take action.

8. In the same year, the Canadian Senate and House of Commons joined in addresses praying for the denunciation of the treaties.

<sup>1</sup> "Papers laid before the Colonial Conference, 1907," p. 341.

9. In 1892, the Canadian House of Commons made a formal offer to the United Kingdom of preferential tariffs.

10. At the Ottawa Colonial Conference of 1894, resolutions were passed in favor of imperial preferences and the denunciation of the treaties.

11. As reply, the British government through the Colonial Secretary declared that preferential arrangements with the United Kingdom could not "be considered a matter of practical politics," and declined to denounce the treaties.

12. In 1897, the Canadian Parliament passed a statute containing an offer of preferences to the United Kingdom.

13. At the Colonial Conference of that year, the Premiers voted unanimously in favor of preferences and of denunciation of the treaties.

14. Lord Salisbury thereupon gave notice of denunciation.

15. At the Conferences of 1902 and 1907 resolutions in favor of imperial preferences were again adopted.

16. All the self-governing colonies have passed preferential tariffs.

17. Will conversion of the United Kingdom occur before or after the colonies have been induced, by the delay, to make other arrangements?





## IMPERIAL CABLES<sup>1</sup>

HAVING seen the failure of all the Chamberlain attempts at military and political federation, it is a relief and a pleasure to turn to those projects of imperial scope which Canada has from time to time proposed — imperial cables, imperial preferential tariffs, imperial postage, imperial routes of travel.

Hardly had the construction of the Canadian Pacific Railway been commenced before Sir Sandford Fleming (then Chief Engineer of the Canadian Government Railways) remarked (1879) that

“If these connections are made, we shall have a complete overland telegraph from the Atlantic to the Pacific coast. It appears to me to follow that, as a question of imperial importance, the British possessions to the west of the Pacific Ocean should be connected by a submarine cable with the Canadian line. Great Britain will thus be brought into direct communication with all the greater colonies and dependencies without passing through foreign countries.”<sup>2</sup>

Prior to that date, cable connection between the United Kingdom and the Australasian colonies had been established by lines which, skirting the African shores, passed through the waters of various foreign countries and were consequently liable to destruction by any one of them at any moment. These lines, moreover, were in the hands of a private company and charged the exorbitant minimum rate of nine shillings a word.

Twenty-three years after Sir Sandford's suggestion (October

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<sup>1</sup> Most of the information in this article was obtained from Mr. Johnson's "Annals and Aims of the Pacific Cable."

<sup>2</sup> "Annals," p. 8.

31, 1902), a Pacific cable connecting Canada with Australia and New Zealand by way of Fanning, Fiji, and Norfolk Islands was completed and in operation. It was owned and operated by Great Britain, Canada, and three of the Australasian colonies; it landed upon British coasts only; and its tariff was three shillings per word between the United Kingdom and Australia, and fifty-eight cents per word between Canada and Australia. Recognized now by everybody as a work of the highest imperial significance, Canada alone foresaw its importance and fought for its construction against British opposition and Australian hesitation.<sup>1</sup>

1884. — The story commences with the Canadian request (1884–1885) that the Admiralty should undertake a survey of a route through the Pacific. The Admiralty objected that, having no available ship, it could not be done. Canada offered the *Alert*. The Admiralty demurred to the cost. Sir Sandford Fleming and a friend offered to pay one-half of the expense (\$90,000). The Admiralty declined the offer — “the Admiralty would have none of it.”<sup>2</sup>

1886. — In 1886, Sir Sandford proceeded to London and through Sir Charles Tupper (Canadian High Commissioner) urged the project upon the British government, with the result that in the circular summoning the first Colonial Conference (1887) it was said that

“the promotion of commercial and social relations by the development of our postal and telegraphic communication could be considered with much advantage by the proposed Conference.”

*Colonial Conference of 1887.* — The Conference met on April 4th, 1887, and the British position with reference to the cable may be judged by the opening remarks of the Colonial Secretary (Sir Henry Holland):

<sup>1</sup> “Annals,” pp. 108–212.

<sup>2</sup> *Ib.* pp. 72, 73, 80, 84.

"The proposal had been from time to time mentioned in connection with the Canadian Pacific Railway, but it was opposed by the company which owns the existing telegraph lines communicating with Australia. . . . A very strong case would have to be made to justify Her Majesty's government in proposing to Parliament to provide a subsidy for maintaining a cable in competition with a telegraphic system which, at any rate, supplies the actual needs of the imperial government."<sup>1</sup>

Mr. Raikes, the British Postmaster-General, spoke to the same effect:

"It would be a matter of extreme difficulty, I think without precedent, for the English government itself to become interested in such a scheme, in such a way as to constitute itself a competitor with existing commercial enterprise, carried on by citizens of the British Empire."<sup>2</sup>

All that Canada could get from the Conference was the following resolutions:

"That the connection recently formed through Canada, from the Atlantic to the Pacific, by railway telegraph, opens a new and alternative line of imperial communication over the high seas and through British possessions, which promises to be of great value alike in naval, military, commercial, and political aspects."

"That the connection of Canada with Australasia by direct submarine telegraph across the Pacific is a project of high importance to the Empire, and every doubt as to its practicability should, without delay, be set at rest by a thorough and exhaustive survey."<sup>3</sup>

1888. — In the following year (1888) at a Conference of all the Australasian colonies, a resolution was passed declaring the necessity of an early survey — the cost to be defrayed by the United Kingdom, Canada, and the Australasian colonies.

Thus urged, the Admiralty indicated that the *Egeria* would proceed with the work; but what, if anything, the *Egeria* did has never been disclosed.<sup>4</sup>

<sup>1</sup> "Annals," p. 86.

<sup>2</sup> *Ib.* p. 58.

<sup>3</sup> *Ib.* pp. 71, 72.

<sup>4</sup> *Ib.* p. 86.

1893. — *Canadian Mission to Australia.* — In September of 1893, Sir Mackenzie Bowell (then Canadian Minister of Customs) visited Australia, hoping to stimulate trade between the two colonies. Sir Sandford Fleming went with him to urge coöperation in the cable scheme. This is what he encountered:

“New South Wales and Victoria, the two leading colonies, were too dependent on the Eastern Extension Company openly to favor the Pacific cable without incurring what was regarded as a serious risk, and lacking the outspoken approval of these influential governments, the other colonies felt that it would be imprudent to commit themselves. Sir George Dibbs, Premier of New South Wales, was well disposed but non-committal. Hon. J. B. Paterson, Premier of Victoria, was of the same mind. It was suspected that the attitude of nearly all the colonies would be altered into positive and active sympathy, if it were once made clear that the cable scheme would go ahead; and that it would have the necessary financial support by joint agreement of Great Britain, Canada, and Australia.”<sup>1</sup>

It is somewhat difficult to believe, but nevertheless the fact is beyond dispute, that the Colonial Office for the express purpose of thwarting the Canadian project, and of aiding its opponents in Australia, sent two documents “for the information of the Australian colonies,” nicely timed (sent September 15) to anticipate the mission of the Canadians. The first of these documents is a letter from the Secretary of the General Post-Office (July 5, 1893), of which Sir Sandford Fleming said:

“It is with a feeling of regret that I find the statements made, inaccurate and misleading.”

The second was a report of the Hydrographer of the Admiralty, nearly seven years old (February 28, 1887), since which, as Sir Sandford said,

<sup>1</sup> “Annals,” p. 110.

“much light has been thrown on the advantages of a Pacific cable and the necessity of its establishment.”

More than that, while Canada was thus so strongly urging the connection of Pacific points with other parts of the Empire by state-owned cables, the British government actually agreed to exclude the proposed lines from Hong Kong. By “an agreement, dated October 28, 1893, the Eastern Extension Telegraph Company strengthened its monopoly by having Canada and the Australasian colonies telegraphically excluded from Hong Kong, and forbidden to lay, or assist in laying, any new cable to that port for a period which does not expire until 1918.”<sup>1</sup>

1894. — *Australian Conference.* — The Canadians accomplished much by their mission to Australia, and to their influence must be attributed the passing of the following resolution of the Postal Conference of the Australasian colonies early in the following year (1894):

“That considering the important interests involved, both of a national and commercial character, in the establishment of a Pacific cable, the representatives of the respective colonies, assembled at this Conference, recommend their governments to consider the desirability of entering into a guarantee with the other countries interested for a period not exceeding fourteen years, and to guarantee interest at four per cent. on a capital of not more than £1,800,000 to any company undertaking the laying of a Pacific cable; the tariff not to exceed 3s. per word for ordinary telegrams, 2s. per word for government telegrams, and 1s. 6d. per word for press telegrams to and from Great Britain and the colonies; that the United Kingdom be asked to join in the guarantee; the routes to be either of the following: Brisbane to Ahipara Bay (New Zealand), Ahipara Bay to Suva, Suva to Apia, Apia to Fanning Island, Fanning Island to Sandwich Islands, Sandwich Islands to Vancouver; or from New Zealand to Suva, Suva to Apia, Apia to Fanning Island, Fanning Island to Sandwich Islands, Sandwich Islands to Vancouver.”<sup>2</sup>

<sup>1</sup> “Annals,” p. 468. See a resolution passed at the Colonial Conference of 1902: “Proceedings,” p. 39.

<sup>2</sup> “Annals,” p. 156.

1894. — *Colonial Conference.* — In June, 1894, a Colonial Conference met at Ottawa

“for the purpose of discussing the question of trade relations and telegraphic communication between Canada and the Australasian colonies.”

At this Conference the Hon. Mr. Suttor of New South Wales declared himself opposed to government ownership:

“The first proposition is that the work should be carried out through the agency of a company, liberally subsidized, and the second is that it shall be a public work carried out entirely under government control, each government interested paying *pro rata* for the construction. Now, with regard to these two proposals made by Mr. Sandford Fleming, I think I shall be justified in expressing the opinion that, so far as the government of New South Wales, of which I am a member, is concerned, I do not think that we can see our way clear to enter into any arrangement such as that by which this cable will be constructed directly by the government itself. My government is not prepared at the present time to enter into any such proposal as that. Mr. Fleming admits that he recognizes the difficulty arising from the obligation of certain of the Australian governments to pay the Eastern Extension Company until May, 1899, an annual subsidy of £32,400, but he considers that it can be readily overcome by providing out of capital an annuity to meet the subsidy as it annually becomes due. That, of course, is in the event of the governments of the different colonies arranging to carry out this work themselves. While I do not think it is at all likely that the governments will enter into any such proposal as that, — I may say here, in parenthesis, with regard to the Eastern Extension Company, that the colony I come from (New South Wales) has no feeling whatever against the company, — we feel that during the time that it has been in existence it has done good work. We feel that it has on every opportunity met the wishes of the different Australian governments, so far as it could within reasonable limits. And if the construction of the Pacific cable means the destruction of the other cable, I do not see that by constructing the Pacific cable and destroying the other we shall be in any better position than we are at present. Therefore, whilst I am quite prepared to give all the assistance that I legitimately can with my instructions, to the consideration of this cable,

I do not see that we would be justified in constructing it if it is going to cause the destruction of the one already in existence. We feel that there is work for both cables, and that we should assist in every possible way we can in doubling this communication between the parts of the Empire concerned. Therefore, we are of the opinion that whilst we will give all legitimate assistance to the proposal now under consideration, at the same time we do not in any way desire to unnecessarily hamper or restrict or discourage the companies already in existence, by which we have telegraphic communication between Europe and Australasia.”<sup>1</sup>

“I am permitted to say that my government is quite prepared to bear its proportionate share of the expense of that survey, if the home government do not see their way to meet it with the ordinary means at their disposal. As to the way in which the line will be constructed, I do not think that my government will agree to any proposal by which the work shall be carried out under the direct control or at the cost of the governments. . . . We are not prepared to subsidize any company, but we are quite prepared to enter into a guarantee, as defined by the Conference in New Zealand, to provide that any company undertaking this work should not be at a loss; in other words, that we should provide the difference between some fixed amount of interest mentioned and the deficiency that would arise between the net receipts and that amount.”<sup>2</sup>

The Hon. Mr. Thomas Playford of South Australia was opposed both to government control and government guarantee. Excepting him, all the representatives voted for the following resolutions:

“That the imperial government be respectfully requested to undertake, at the earliest possible moment, and to prosecute with all possible speed, a thorough survey of the proposed cable route between Canada and Australia; the expense to be borne in equal proportion by Great Britain, Canada, and the Australasian colonies.”<sup>3</sup>

“Resolved, that the Canadian government be requested, after the rising of this Conference, to make all necessary inquiries, and generally to take such steps as may be expedient, in order to ascertain the cost of the proposed Pacific cable,

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<sup>1</sup> “Annals,” p. 160.

<sup>2</sup> *Ib.* p. 168.

<sup>3</sup> *Ib.* p. 87.



and promote the establishment of the undertaking in accordance with the views expressed in this Conference."<sup>1</sup>

The first of these resolutions indicates the lack of progress since the passing of a similar one seven years before, at the Conference of 1887. The second of the resolutions was promptly acted upon in the very practical way of advertising for tenders for the construction of the cable.<sup>2</sup> Before the year was out the tenders were in, and all trouble about "a thorough survey" obviated.

*Necker Island.* — There is an interesting story of Sir Sandford Fleming's attempt to secure Necker Island as a mid-ocean landing-place for the cable; and it is very well told in "Annals and Aims of the Pacific Cable" (Chap. iv). He did not succeed, and the cable had to continue eight hundred miles further, at enormously increased expense, to Fanning Island, before it reached land.

Necker Island belonged to nobody, and was worth nothing to anybody except as a cable station:

"Very little was known about the island, as no one had ever landed upon it. What information there was had been published chiefly to warn mariners from its inhospitable shores. Necker Island is, in fact, a mere rock, from one-half to three-quarters of a mile long and one thousand feet broad, with an elevation at two points of 250 and 280 feet on the southeast. Not a single tree is to be found upon the island, but there is stated to be abundant vegetation on the high land toward the summit. The shores rise steep as a wall, and the sea breaks with fury at all points. The island was discovered by La Perouse on the 1st of November, 1786, but was regarded as too insignificant for ownership."<sup>3</sup>

Canada urged (1893) that the island should be taken possession of; and Sir Sandford obtained the coöperation of New South Wales, Victoria, and Queensland in pressing the

<sup>1</sup> "Annals," p. 88.

<sup>2</sup> See Sess. Pap., H. of C., Can., No. 51 of 1899.

<sup>3</sup> "Annals," p. 124.

importance of the step upon the British government. The reply (December 29, 1893) could have been foretold:

"The Secretary of State for Foreign Affairs will defer action, pending the establishment of the government of Hawaii upon a more permanent footing."<sup>1</sup>

What this meant is told in "Annals and Aims" (p. 127):

"It will be remembered that the death of King Kamehameha had been followed by a revolution in which the Queen was deposed, and a provisional government established. The members of this government were nearly all citizens of, and in active sympathy with, the United States. The British government, always anxious to avoid the tender corns of the United States, possibly felt that to take possession of Necker Island might cause annoyance at Washington. At any rate, they evidently felt it necessary to consult the Hawaiian government in the matter, though on what grounds it is somewhat difficult to determine, as Necker Island did not belong, either politically or geographically, to the Hawaiian group."

In January of the following year (1894) Sir Sandford, together with official representatives of Canada, New South Wales, New Zealand, Victoria, Queensland, and Tasmania, waited upon the Colonial Secretary (Lord Ripon) and urged action. Lord Ripon (as Sir Charles Tupper reported January 16)

"seemed to be much impressed with our representations and promised to place himself in communication with the Foreign Office, with a view of ascertaining what action can be taken in the matter."<sup>2</sup>

Lord Ripon desired that

"they should all be extremely careful to avoid any public reference to the subject, it being most important that the whole matter should be held to be strictly confidential, inasmuch as any reference to it by the newspapers of the day might imperil the object they all had in view."<sup>3</sup>

<sup>1</sup> "Annals," p. 126.

<sup>2</sup> *Ib.* p. 128.

<sup>3</sup> *Ib.* p. 137.

Nothing being done, Sir Charles Tupper appealed to the Foreign Minister (Lord Rosebery), who considerately

“expressed his desire that the imperial government should do anything possible in the premises; that Her Majesty’s representatives at Honolulu had been requested to watch the matter closely; but he thought it undesirable, in view of the disturbed relations in the Sandwich Islands, that any definite steps should be taken for the present.”<sup>1</sup>

Months passed, nothing was done, and Sir Sandford, acting upon a suggestion from a military official to the effect that

“the best thing to do in a matter of that kind is to act first and ask for leave afterwards,”

arranged that a retired naval officer should take a trip to Necker Island, and “leave behind him evidences of his visit” — in other words run up the British flag. The plans were well and carefully laid; the retired officer went to Honolulu, found two steamers at his disposal, and was about to embark when he ascertained that

“the British government had already recognized — apparently quite gratuitously — the right of Hawaii to the island of Necker as an appanage of the Hawaiian Crown or government, and had asked the provisional government on what conditions they would allow Great Britain to have control of the island for the purpose of landing a cable there.”<sup>2</sup>

The retired officer abandoned the project, and the next day (May 25, 1894) one of the ships

“was taken possession of by the Hawaiian government, and the same afternoon she left for an unknown destination.”<sup>3</sup>

Two days afterwards the Hawaiian flag was hoisted on Necker Island.

After the retired officer had started for Honolulu, Sir Sandford confessed his scheme through Sir Charles Tupper to the

<sup>1</sup> “Annals,” p. 128.

<sup>2</sup> *Ib.* p. 135.

<sup>3</sup> *Ib.* p. 138.

British government, and on May 31, 1894, Sir Sandford received the following cable:

"Rosebery much annoyed at action. Will repudiate. Fears will destroy good prospect of obtaining Necker. Prevent action becoming public if possible."<sup>1</sup>

This injunction turned out to be unnecessary — unnecessary because some one having betrayed Sir Sandford to the Hawaiian government, there was no "action" to conceal. In the "Annals and Aims" it is said:

"The explanation forms an essential portion of the Necker Island story, but as it involves the reputation of a gentleman who was at the time a minister of the Crown, the regrettable incident is omitted from these pages."<sup>2</sup>

Balked in this way, Canada sent Sir Sandford to treat with the Hawaiian government for the cession of Necker, or of the necessary rights in respect of it. A satisfactory arrangement was easily made, but subject to the approval of the United States — the Hawaiian government being debarred by treaty from acting without American assent. The United States Senate refused its assent; and the cable had to go by Fanning Island at an increased cost of about \$2,250,000.

"Moreover, it will not be possible to send messages as effectively — that is to say, at the same rate of speed — by the longer route now adopted. This represents the price the Empire has to pay for the failure to secure Necker Island; a failure which, in the end, was certainly inevitable, but at one time could have been avoided at the mere cost of despatching a British warship to take formal possession of the island."<sup>3</sup>

1896. — The attitude of the British government underwent some change with the accession of Mr. Chamberlain to the Colonial Secretaryship. In June, 1896, he created the Imperial Pacific Cable Committee (composed of two British,

<sup>1</sup> "Annals," p. 133.

<sup>2</sup> *Ib.* p. 142.

<sup>3</sup> *Ib.* p. 147.

two Canadian, and two Australasian representatives) for the purpose of investigating the project; and on January 5, 1897, the committee's report was ready: the scheme was practicable; the route should be by Fanning, Fiji, and Norfolk Islands; and the cable should be state owned.<sup>1</sup>

1897.—*Colonial Conference*.—Progress might have been expected, but none came with the Conference of 1897. Mr. Chamberlain was non-committal. In his opening speech he said:

“In any matter in which our colonies are themselves deeply interested they may count on the support and assistance of the mother country. . . . I think that one of the very first things to bind together the sister nations is to have the readiest and the easiest possible connection between the several units.”<sup>2</sup>

And the only specific reference to the cable in the official account of the proceedings is as follows:

“The question of the proposed Pacific cable was brought up, but the majority of the provinces desired that the subject should be deferred until they had had time to consider the report of the Committee appointed to consider the question last year. It was, however, pointed out to the members of the Conference that the matter was not one in which the United Kingdom was taking the initiative, although Her Majesty's government were ready to consider any proposal for working with and assisting the colonies, if they attached great importance to the project; and that they would now wait definite proposals from the colonies interested before proceeding further in the matter.”<sup>3</sup>

In a semi-official way *The Standard* announced that

“The Conference left the Pacific cable in mid-air, and it is very unlikely that anything more will be heard of it for a considerable time. The position was entirely changed by a proposal by the Eastern Extension Telegraph Company to lay an all-British line from Western Australia across the Indian Ocean

<sup>1</sup> “Annals,” pp. 214, 239.

<sup>2</sup> *Ib.* p. 236.

<sup>3</sup> *Ib.* p. 236.

to Mauritius, thence connecting with the Cape and St. Helena and Ascension. . . . The Eastern Extension Company, it is understood, does not ask for a direct subsidy for the new lines, but seeks other concessions from the Australasian governments, which, if made, will justify them in proceeding with the work."<sup>1</sup>

1899. — Notwithstanding this announcement the Colonial Secretary encouraged the colonies to continue negotiations as to the proportion in which the cost of the cable ought to be borne; and by August of 1898 an agreement was arrived at by which the Australasian colonies were to pay eight-eighteenths and Canada five-eighteenths, provided the United Kingdom would contribute the other five-eighteenths. Months passed and finally Mr. Chamberlain telegraphed

"Her Majesty's government are anxious to show sympathy with Canadian and Australasian government by assisting Pacific cable scheme, but cannot take part in laying or working the line."<sup>2</sup>

As an alternative he proposed that the United Kingdom would pay five-eighteenths of any loss of revenue (not exceeding £20,000) which might result from operating the cable, provided that priority was given imperial government messages, and that they were transmitted at half the ordinary rates.

Sir Sandford at once issued a vigorous protest "To the British People" against this refusal and proposal:

"As this proposal, at the eleventh hour, taken by itself, involves an entire change in the well-known plan upon which Australia, New Zealand, and Canada have been proceeding in their negotiations for more than two years, and, moreover, is in itself of no value in securing the establishment of so important a national work, it is impossible to believe that it is the full or final judgment of Her Majesty's government, for the following reasons, viz.:

"1. It would always be regarded as a recession on the part of

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<sup>1</sup> "Annals," p. 240.

<sup>2</sup> *Ib.* p. 431.

the mother country from a common understanding with Canada, Australia, and New Zealand.

"2. It would always be regarded as an attempt to retard the expansion and cripple the commerce of the Empire in the interest of a few rich monopolists.

"3. It would always be regarded by the people of Canada, Australia, and New Zealand as an unjustifiable and discourteous act to them.

"4. Its effect would be far-reaching, and its immediate effect would be a fatal blow to the scheme for establishing a system of State-owned British cables encircling the globe.

"5. It would be a very grave retrograde step in the imperial movement, which aims to draw closer the bonds between the mother country and her daughter lands."<sup>1</sup>

The protest was sustained by the colonial Agents-General in London; Mr. Chamberlain capitulated and agreed to assume the proposed five-eighteenths of the cost.

The contract for construction was signed on December 31, 1900. On October 31, 1902, two world-encircling messages were sent from Ottawa — one to the East and the other to the West. One of these was as follows:

"To the Governor-General, Ottawa.

Congratulations follow<sup>2</sup> the sun around the globe via Australia, South Africa, and England on completion of the Pacific cable — initiating new era of freest intercourse and cheap telegraph service throughout the Empire.

"SANDFORD FLEMING."

The Canadian idea of imperial coöperation in State-owned cables had been realized.

<sup>1</sup> "Annals," p. 433.

<sup>2</sup> "Outspeed" would perhaps have been a better word.

## IMPERIAL POSTAGE

Two Canadian methods of "consolidating the Empire" — imperial preferences and imperial cables — have now been discussed. There is still a third—imperial postage—and the story of another great Canadian success remains to be related.

Even the originators of the postal system must have had some conception of its tremendous educational as well as commercial advantages, and no one now doubts that cheap postage is a powerful aid in the dissemination of culture as well as in the advancement of the world's welfare.

Curiously enough, however, the great benefits to be derived from the post-office have always been subordinated in the United Kingdom to the idea that the office must not only pay its way, but must be a source of national revenue. And thus although the distances are short, the population dense, and the methods of transportation of the best, letters are still charged a minimum rate of one penny; newspapers (whether from the office of publication or elsewhere) one half-penny each; and periodicals eight cents per pound. For the year 1905, the surplus revenue reached the large sum of \$18,000,000.

Canada has always acted upon the opposite principle, and deficits, rather than surpluses, have been the normal condition of her post-office finances. Although her distances are immense, her population scattered, and many of her methods of transportation somewhat primitive, yet the minimum letter rate is the same as that of the United Kingdom; the rate upon newspapers and periodicals is a quarter of a cent per



bulk pound<sup>1</sup> from the office of publication for distances within three hundred miles, and a half-cent for longer distances.

*Letter Rates: Canadian, Domestic.*—During the period of British management of Canadian post-office affairs (1763–1851) the idea that the post-office ought to make money was applied upon this side of the Atlantic, and thousands of dollars were each year remitted to London as profits upon Canadian operations.

During the first year of Canadian management, she reduced the average rate of letter postage from eighteen cents per half ounce to six cents, with the result that in four years the revenue was greater than it had ever been before:

1851	. . . . .	\$362,065
1852	. . . . .	230,629
1853	. . . . .	278,587
1854	. . . . .	320,000
1855	. . . . .	368,166

Since 1851 numerous changes (always reductions) have been made. In 1868 (the year after Federation) the letter rate was fixed at three cents per half ounce; in 1889 it was reduced to three cents per ounce; and in 1899 to two cents per ounce. In the United Kingdom a penny carries a letter at farthest 800 or 900 miles (Land's End to Orkney Islands). In Canada the same amount pays for 5495 miles (Sydney to Dawson).

*Letter Rate between Canada and United Kingdom.*—In 1868 the rate between Canada and the United Kingdom was 12½ cents per half ounce. In 1870 it was reduced to six cents, and in 1875 to five cents for the same weight. Canada was

<sup>1</sup> That means that the rate is charged, not upon each separate newspaper, but upon the weight of the whole number mailed. Each newspaper therefore usually costs less than the quarter-cent.

not satisfied, and from time to time endeavored to obtain British consent to a reduction to three cents. All efforts failing, Canada took a course somewhat similar to that which she adopted when the United Kingdom was refusing to accept preferential customs duties. In that case, Canada passed a statute (1897) giving the preference, with the result that the United Kingdom reconsidered the matter and accepted it. During the same year, the Canadian Postmaster-General (Sir William Mulock), without any sufficient authority, issued a notice that after January 1, 1898, the rate upon letters to the United Kingdom should be three cents per ounce. The United Kingdom had declared that it would not accept letters so paid, but Canada's curious performance forced a reconsideration, and the United Kingdom suggested consultation. Sir William withdrew his notice, paid out \$91.95 upon letters sent upon the faith of it, and before the end of the year had the satisfaction of issuing another (December 21, 1898), this time well based, declaring that the rate from Canada, not only to the United Kingdom, but to thirty-six other parts of the Empire, should be two cents per half ounce. On October 1, 1907, the rate was further reduced to two cents per ounce upon Canadian letters to every part of the Empire.<sup>1</sup>

Imperial penny postage is largely the result of Canadian determination.

*Periodical Rate: Canadian, Domestic.*—In 1868 (just after Federation) Canada established rates upon newspapers and periodicals when mailed from the office of publication ranging from five cents each, per quarter, for weekly issues, to thirty cents each, per quarter, for daily issues. In 1875 the rate was changed to one cent per bulk pound; in 1882 to zero; in 1889 weekly issues (for twenty miles distance) free,

<sup>1</sup> Some places (Australia and Rhodesia) still charge more than two cents on letters to Canada.

and others (more frequent) one-half cent per bulk pound; in 1903 this one-half cent was reduced to one-quarter cent per pound for deliveries within a radius of three hundred miles.

These same rates applied to transmissions from Canada to the United States.<sup>1</sup>

*Periodical Rate between Canada and United Kingdom.* — In 1878, Canada became a party to the Universal Postal Union, with the result that she had to adopt the universal rate of one cent per two ounces.<sup>2</sup>

When, therefore, the Colonial Conference of 1902 met in London, Canada's position was that though the rate to and from the United States upon newspapers and periodicals was one-fourth of a cent per bulk pound for issues more frequent than weekly within distances of three hundred miles, and one-half cent for other transmissions, yet that the rate to and from the United Kingdom was one cent for every individual two ounces, or eight cents per individual pound.

At the Conference the following resolution was adopted:

"That it is advisable to adopt a principle of cheap postage between the different parts of the British Empire on all newspapers and periodicals published therein, and the Prime Ministers desire to draw attention of His Majesty's government to the question of a reduction in the outgoing rate. They consider that each government shall be allowed to determine the amount to which it may reduce such rate, and the time for such reduction going into effect."<sup>3</sup>

*Canadian Action.* — Nothing being done, the Canadian Postmaster-General issued (1902) a circular letter offering to

<sup>1</sup> This was by virtue of a special convention between the two countries.

<sup>2</sup> No special convention could be made; for rates between countries not contiguous were unalterably fixed by the Postal Union.

<sup>3</sup> "Proceedings," pp. xi, 40.

send Canadian periodicals to all parts of the Empire at the domestic rate (one-half cent per bulk pound) and offering to receive at the same rate.

The United Kingdom and some of the colonies<sup>1</sup> agreed to accept the Canadian publications at the rate offered, but New Zealand was the only one that offered to reciprocate, and her offer was not one-half cent per pound, but one penny per newspaper up to eight ounces.

The reason for the refusal of reciprocity by the United Kingdom was the existence of the high domestic rate which the authorities did not wish to reduce. A proposition to send periodicals to Canada at one-half cent a bulk pound was plainly unacceptable while the internal rate was one cent for every individual two ounces. The rate to Canada could not be made one-sixteenth of the rate from London to Liverpool.

Canada was disappointed. Canada was being flooded with American literature, and many of the British publications that reached her were brought by express to New York,<sup>2</sup> there surrounded with American advertisements, and sent by post to Canada.

*Senate's Resolution.* — Expression to Canada's disappointment was given in a resolution of the Senate (February 22, 1905) moved by Sir George Drummond, as follows:

"That the attention of the government be directed to the local, foreign and imperial postal charges, with the view of remedying certain irregularities therein; and the Senate affirms the principle that the conveyance of letters, newspapers, books, periodicals, etc., should be at a lower scale of charge within the Empire than at the time ruling with any foreign country."

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<sup>1</sup> Seventeen colonies announced their acceptance in 1903, and ten others in 1904.

<sup>2</sup> At two dollars per hundred pounds—one-quarter of the British postal rate.

Sir George, in finishing his speech, said that

“imperial sentiment, which is the deliberate policy of this country, as affirmed, is the strongest and most effective bond of union in the Empire; and that in dealing with it in the miserable haggling way the British Post-Office does, they are trifling with an important factor in the spread of imperial feeling and sympathy. I do not care to exaggerate sentiment as a factor, but you may be certain that it is the most potent factor in all political movements in the world.”

About the same time the Canadian Press Association adopted the following resolution:

“Believing that a cheap system of news, book, and letter postage is of the highest necessity in bringing about the full interchange of thought and knowledge by which the peoples of the Empire can be brought into a mutual understanding of each other, into common ground of action, and into closer commercial relations, this assembly warmly commends the efforts already made by our Postmaster-General to this end, and earnestly trusts that the Canadian government will continue to urge upon the imperial government the early inauguration of such a postal system for all parts of the British Empire.”

With a view of pressing the matter upon the attention of the British government, the following petition addressed to the British Postmaster-General was signed by the officials of various Canadian Boards of Trade and Chambers of Commerce, by the President of the British Empire League and others; and on March 16, 1905, a deputation of twenty-one members of the British House of Commons headed by Sir Gilbert Parker (a Canadian) presented it to the Postmaster-General. It was as follows:

“We the undersigned would respectfully draw your attention to the unsatisfactory circulation of British weeklies and monthlies in the outlying portions of the Empire, and would urge that the postal rates for this class of mail-matter be reduced from four pence to one penny a pound, when sent from the office of publication or from news-agencies.

"The needs of the British Empire demand that the literature of the people shall be British, and cheaper postal rates seem positively necessary to this end. Interchange of opinion is necessary to political unity, and interchange of advertisement is one great means of promoting inter-imperial trade.

"We your petitioners would humbly urge upon you the importance of this postal reform in order that Canadians may receive British periodical literature at a rate as advantageous as that from foreign countries."

Sir Gilbert Parker, in presenting the petition, said:

"British trade is naturally affected by the competition of American advertisements; in other words, the higher postal rate on newspapers and magazines going to our colonies is practically a tax upon the advertisements of British goods and manufactures, upon the productions of the publishing houses, upon British printing and upon British authorship; it provides protection for American publishers; it retards the development of mutual understanding and reciprocity of feelings and sentiments; and it is a handicap upon information concerning the industrial and commercial outputs of this country and of the general commercial trade; it tends to place Canada, its thought, feeling, business methods, and commercial life under American instead of British influence. It is, in fact, a premium upon Canadian and American reciprocity."

General Laurie, speaking in support of the petition, said that he had over and over again approached the former Postmaster-General and had always been told that

"we cannot afford to do it. Our business is to collect and deliver letters and newspapers, etc.; it is not our business to create sentiment nor to advance trade."

The reply of the Postmaster-General (Lord Stanley) was a refusal. He said:

"The mere fact of my father having been Governor-General of Canada would rather predispose me to sympathize with you; but, at the same time, in matters like these, one has to put aside sentiment, at any rate to a certain extent, and deal with the question on business lines. . . .

“You have then to see what effect that would have on our inland postage, and I ask those who know the House of Commons well, whether it would be possible for me or for any Postmaster-General to stand up in his place in the House and justify the institution of a cheaper rate of postage for periodicals and newspapers sent between London and Canada and between London and other colonies than is in force for newspapers and periodicals sent now between London and Oxford.”

Upon the change of government in 1905, Mr. Sydney Buxton (who had been one of the deputation which waited upon Lord Stanley) became Postmaster-General. His sympathies were with the Canadians, but he had to consider not only the traditions of his office but the opinions of his colleagues. Not long after his accession to office, in reply to a question in the House of Commons, he referred to the loss which the adoption of the proposal would involve—a loss

“which could not be recouped, but would only be made greater by any increase that took place in the amount carried.

“The position of Canada, however, in regard to this matter, is a peculiar one. But I see, I fear, little prospect of attaining the desired object unless some special arrangement, entailing probably some sacrifice on either side, could be devised and in a form which would not create a precedent.”

“Some special arrangement” was soon made. The British rate to Canada was reduced from 4*d.* to 1*d.* per pound, Canada upon her part agreeing to two stipulations:

1. The reduction not being sufficient to overcome the competition from the United States, Canada agreed to increase her neighbor's rate. From 1875 to 1888, the rate to publishers on newspapers and periodicals from the United States to Canada had been two cents per pound. In 1888 it was reduced to one cent. It was now increased to one cent for every four ounces.<sup>1</sup> The British publisher, therefore,

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<sup>1</sup> There was no distinction in those arrangements between newspapers and periodicals.

would pay two cents per pound and the United States publisher four cents per pound.

2. The second stipulation was of less reasonable character; namely, that Canada should pay the expense of ocean transportation upon ships going direct to Canada. It was hardly fair that Canada should pay ocean freight both ways. That is one of the prices, however, which Canada is willing to pay for such sorts of imperialism as she approves. And we must remember that while periodicals coming to Canada pay two cents per pound, the British domestic rate is still eight cents per pound. A magazine going from London to Liverpool is charged four times as much as one coming on to Canada. Liverpool people will find that out some day and probably think about it.

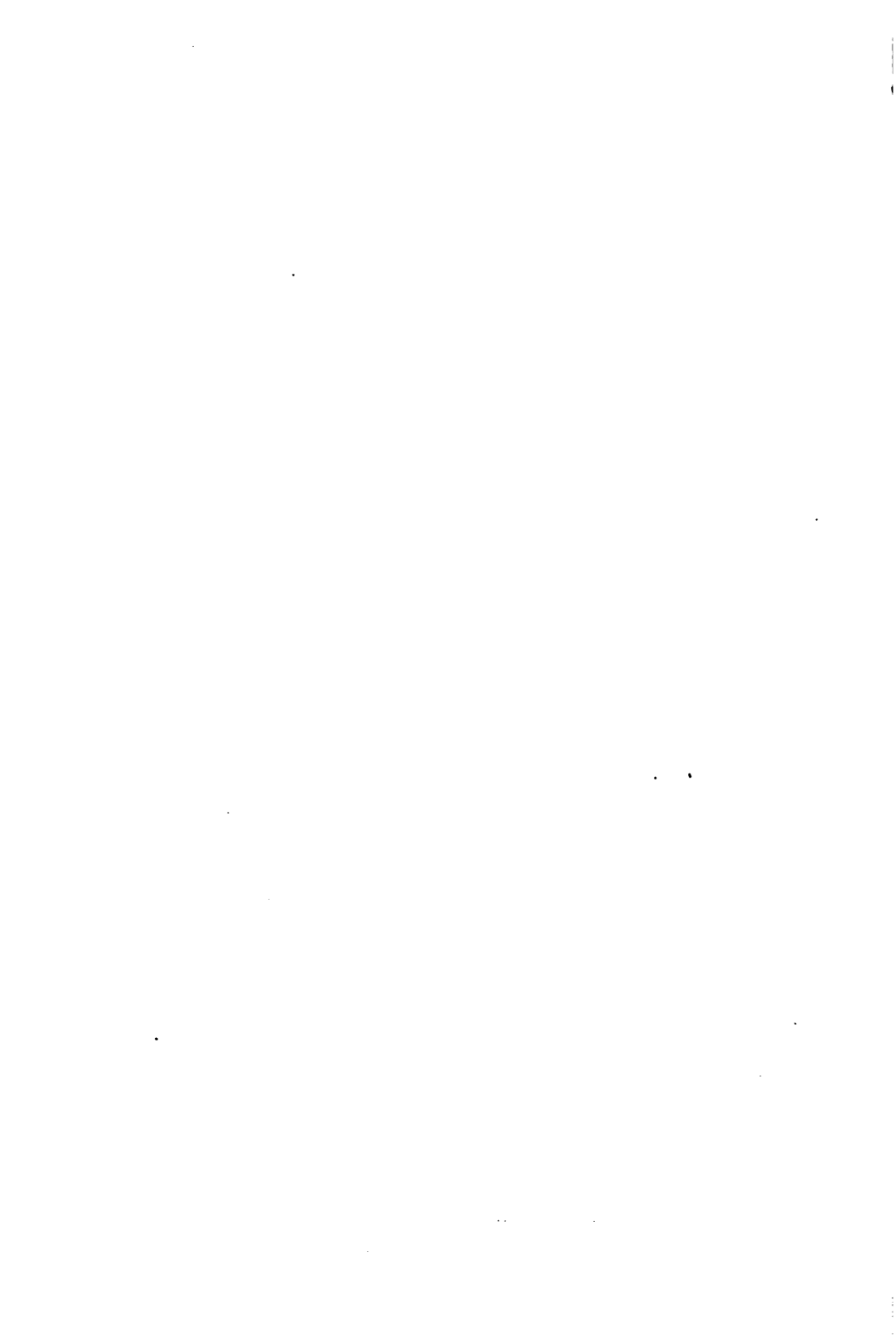
The British publisher will also think about it, when he hears what the effect of the reduction has been. The new rate took effect on May 1, 1907, and during that month and the next the number of bags of mail which came to Canada direct from the United Kingdom was 146 per cent. greater than for the same months in the previous year. That is imperialism of the practical Canadian sort.



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## THE ALASKA BOUNDARY

THE deplorable "History of British Diplomacy in Canada" has been very well told by Mr. Justice Hodgins down to the date of the publication of his book. The latest incident, the only really disgraceful one of the series,—the Alaska boundary settlement,—remains unrelated.

Compliant concession to United States pretensions, Canada is well accustomed to. It formed one of the explanations of her docile acceptance of the Alaska award. Indignation had been discounted. Both American and Canadian newspapers foretold the result from the beginning. Everybody knew what was coming. No one, however, imagined that, this time, dishonor and treachery, rather than mere compliance, would be the principal feature attending the loss of another bit of Canadian territory. The language is not too strong. Let the story be carefully read. The evidence will be supplied principally by Lord Alverstone himself—the man charged. Before we come to his appearance in the transaction, however, two other parts of it must be related, and the nature of the dispute understood.

*Nature of Dispute.*—In 1825 Great Britain and Russia, by treaty, declared that the boundary between the Russian territory along the northwest coast of the continent and the British hinterland should be as follows:

"III. The line of demarcation between the possessions of the High Contracting Parties, upon the coast of the continent, and the islands of America to the northwest, shall be drawn in the manner following:

"Commencing from the southernmost point of the island called

Prince of Wales Island, which point lies in the parallel of 54° 40' north latitude, and between the 131st and the 133d degrees of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called Portland Channel, as far as the point of the continent where it strikes the 56th degree of north latitude; from this last-mentioned point, the line of demarcation shall follow the summit of the mountains (*la crête des montagnes*) situated parallel to the coast, as far as the point of intersection of the 141st degree of west longitude (of the same meridian); and, finally, from the said point of intersection, the said meridian line of the 141st degree, in its prolongation as far as the Frozen Ocean, shall form the limit between the Russian and British possessions on the continent of America to the northwest.

“IV. With reference to the line of demarcation laid down in the preceding article, it is understood:

“First: That the island called Prince of Wales Island shall belong wholly to Russia.

“Second: That whenever the summit of the mountains (*la crête des montagnes*) which extend in a direction parallel to the coast, from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude, shall prove to be at the distance of more than ten marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia, as above mentioned, shall be formed by a line parallel to the windings of the coast, and which shall never exceed the distance of ten marine leagues therefrom.”

Afterwards Russia sold all its territory to the United States, who took it, of course, subject to the terms of the treaty.

Three points of dispute arose out of the language just quoted:

1. Does the boundary line cross deep inlets of the ocean, or does it run around the ends of the inlets?
2. Which are “the mountains situated parallel to the coast”?
3. What is the southern boundary? That is to say, does the line run to the north or to the south of the four islands there?





Understanding of these questions will be helped by the two maps — the first showing upon a small scale the whole region; and the second exhibiting upon a larger scale all that is necessary for comprehension of what will be said upon the third question.

*Negotiations for Arbitration.* — Canada desired arbitration of all these questions. In 1895 the United States had forced the United Kingdom to submit her boundary dispute with Venezuela to arbitration; why should not the United States arbitrate the Alaska question upon the same terms? It should, but it refused. When Lord Salisbury gave a similar refusal in the Venezuela case, the United States President advised Congress to ascertain the boundary for itself, and to adhere to it. His language was not courteous, but his action was effective.<sup>1</sup> Let us follow, very shortly, the negotiations with reference to Alaska.

In July, 1898, the Anglo-American Commission (commonly called the High Joint Commission) was appointed by Great Britain and the United States (Lord Herschell, English, and Sir Wilfrid Laurier, Sir Richard Cartwright, and Sir Louis Davies, Canadians, were the British commissioners) with the hope of settling all outstanding difficulties between Canada and her neighbor.

After making a good deal of progress the commission adjourned (February, 1899) without solving anything — adjourned because of the Alaska question. Not being able to make any approach to agreement upon that point, the British commissioners proposed that it should be referred to three arbitrators, one to be appointed by each party, and the third by these two, and upon the terms agreed to in the Venezuela

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<sup>1</sup> President Cleveland said that it was "the duty of the United States to resist . . . the appropriation by Great Britain of any lands which after investigation may be determined by right to belong to Venezuela."



case. The American commissioners declined, offering in return an arbitration board of six "impartial jurists of repute," three to be appointed by each party. The Canadian commissioners (and probably Lord Herschell too) knew what that meant and declined it. Then the Americans wanted to go on with the other subjects in dispute — to get what they could out of those, while refusing anything, even arbitration (of real sort), with reference to Alaska; but the British commissioners declined, saying:

"The manner in which they would be prepared to adjust some of the other important matters under consideration must depend in their view upon whether it is possible to arrive at a settlement of all the questions which might at any time occasion acute controversy and even conflict."

Both sides for once were stiff, and the commission adjourned *sine die*. The Alaska dispute went back to the governments.

Dilatory negotiations ensued. Two years after the adjournment of the High Joint Commission the United States renewed its former proposal of six "impartial jurists of repute," each party to appoint three, and Lord Lansdowne replied (February 5, 1902):

"His Majesty's government have carefully considered, in communication with the government of Canada, the draft convention communicated to Your Excellency unofficially by Mr. Hay in May last, which provides for the submission to arbitration of the Alaska boundary dispute. While most anxious to reach a solution of this long-pending question by means of arbitration, they find themselves compelled to dissent from the terms proposed in the following points," namely (amongst others), "an even number of arbitrators drawn from either side. . . . Animated, however, by a strong desire to secure a reference to arbitration, they [the British Government] are willing to acquiesce in the proposed number of six, provided that at least one of the United States arbitrators shall not be a citizen of the United States, or a citizen or subject of any state directly or indirectly under the protection of the United States; and that at least one of the British arbitrators shall not be a British

subject, or a subject of any power or state directly or indirectly under the protection of His Britannic Majesty."

The United States refused the proposal. Eleven months afterwards (January 12, 1903) the Colonial Secretary telegraphed the Governor-General as follows:

"Sir M. Herbert [British representative at Washington] advocates strongly three judges of United States Supreme Court, with Lord Chief-Justice England, Chief-Justice of Canada, and Judge of High Court Great Britain on our side, as constituting a tribunal commanding in highest degree confidence of all concerned. Your ministers will doubtless give this their serious consideration. Early expression of views of your ministers desired as to terms of draft treaty, finality of tribunal's decision, and its composition. Reply by telegraph."

The Governor-General replied (January 13):

"Referring to the last proposed Alaskan boundary treaty, a draft of which you submitted to me, my ministers are satisfied with the questions to be submitted to the tribunal, but they still have the same objection to the composition of the proposed tribunal, and before assenting to it, they would hope that another effort should be made to have the questions to be adjudicated upon submitted either to a Board of Arbitrators composed in part of independent jurists, not subjects of either state, as proposed in my despatch to Mr. Chamberlain of November, 1901, or to the Hague tribunal."

Another effort was made, with this result (Herbert to Colonial Secretary, January 18, 1903):

"Mr. Hay expressed his regret that the Canadian government still entertained objections to the composition of the tribunal, as he had hoped they would accept the treaty spontaneously in view of the alterations which he had made as regards the terms of reference. He said that he could only repeat what he had frequently intimated to me during the last three months, that the President was unable to accept any form of arbitration other than that proposed in the treaty, and that the Senate would certainly decline to ratify any treaty providing for the submission of the Alaska boundary dispute either to the Hague Court or to foreign arbitration."

The Colonial Secretary then telegraphed the Governor-General (January 19):

"In view of Herbert's telegram stating that United States government unable to accept modification of tribunal, hope your ministers will agree to his now being instructed to sign treaty. Telegraph reply as soon as possible."

The Canadian reply has not been published. No doubt it contained the desired assent. On January 23, the British Ambassador at Washington was instructed to sign the treaty. The Alaska question was to go to lopsided arbitration — to six "impartial jurists of repute," each party to appoint three.

*The United States had Won its First Point.*

#### CLAYTON-BULWER TREATY

(A parenthesis)

While these negotiations were in progress (1898–1903) the United States was pressing the British government for modification of the terms of the treaty respecting the inter-oceanic canal in Central America — the Clayton-Bulwer treaty (April 19, 1850). Its principal clause was as follows:

"The governments of the United States and Great Britain hereby declare that neither the one nor the other will *ever* obtain or maintain exclusive control over the said ship-canal."

The United States wanted the clause abrogated. On February 5, 1900, by treaty of that date (the Hay-Pauncefote treaty), Great Britain agreed to very substantial modifications; but the Senate of the United States declared that greater concessions ought to be obtained, and refused to ratify the agreement. Lord Salisbury declined to accept the Senate's proposed amendments (February 22, 1901), but was finally brought to a compromise (November 18, 1901) which the United States Senate was good enough to accept.<sup>1</sup> The

<sup>1</sup> The correspondence is in British Sessional Papers, 1902, Vol. 180.

old treaty was torn up, and the principal clause of the new one is

“It is agreed that the canal may be constructed under the auspices of the government of the United States.”

The United States got that concession for nothing.

“ IMPARTIAL JURISTS OF REPUTE ”

The Arbitration Board was to consist of six “impartial jurists of repute.” But would the Senate ratify a reference to “impartial” people? The American government had declined a board of three, of which each party was to appoint one, and these two the third; had refused to agree that two of a board of six should be outsiders; had insisted that one-half of the board should be selected solely by themselves; but had agreed that these three should be “impartial.” Would the Senate ratify that? The Senate is usually very jealous of its control of the treaty-power — will it allow the President to select the “impartial jurists of repute”?

Difficult questions, no doubt; but got rid of by an agreement between the President and the Senate that the three “impartial jurists” should, by their positions and known sentiments, be *not* impartial — that they should be a member of the government and two committed members of the Senate! Within eighteen days from the signing of the treaty, the Senate gave its ratification.

The Secretary for War, Mr. Root, although a distinguished jurist, could not be said to be “impartial.” He was a member of the government that had already, in diplomatic correspondence, argued the case against Canada — correspondence in which the arguments, not of any individual but of the government of the United States, were put forward as conclusive of the controversy. Mr. Root would have failed

to qualify under American state law even for a jurymen, much less for a judge, in such a case. The contest was between the two governments, and he was a member of one of them.

Senator Lodge was not "impartial." Speaking of the Clayton-Bulwer negotiations, he is reported to have said:

"If we should yield to it, there is not a portion of our northern boundary which England could not attack. . . . When an attempt was made to revive negotiations last spring, Canada came forward again with her Alaska claim and President Roosevelt refused to recognize it, as any patriotic American would. . . . No nation can afford to surrender its territory on baseless claims."<sup>1</sup>

Senator Turner resided in the state of Washington — the Pacific coast state having (with its Tacoma and Seattle) the greatest interest in supporting the American contention. That, no doubt, is far from conclusive as to his partiality, but this much may be said: that decision in favor of Canada would have been easier for any other man in the United States (except members of the government) than for a politician of the state of Washington and a resident of Spokane.

Announcement of these three names altered the appearance of the whole proceeding. Instead of an arbitration of even such doubtful utility as the treaty provided, it was now apparent that if the United States could not win, at all events it was not possible for it to lose. The probabilities were strong in favor of securing the favorable verdict of one at least of the three British commissioners<sup>2</sup>; and if not — well, no harm would be done. As one American newspaper put it:

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<sup>1</sup> See Canadian House of Commons Debates, March 13, 1903, p. 34.

<sup>2</sup> The British judge, Mr. Justice Hannen, had separated from his Canadian colleague on the question of Behring Sea regulations in Paris.

"The chances of convincing American jurists of the rightfulness of Canada's claim are about the same as the prospect of a thaw in Hades."<sup>1</sup>

On the 18th of February the Colonial Office telegraphed the Governor-General:

"Herbert [British ambassador at Washington] telegraphs that President will appoint Mr. Root, Secretary of State for War, and Senators Lodge and Turner as American commissioners, Alaska boundary. Shall be glad to have views your ministers as to British commissioners."

But the Canadian government was in no mood to express views "as to British commissioners." They wished rather to say something as to the American appointments, and on February 21, the ~~Governor-General telegraphed to the Colonial Secretary:~~

"My ministers call attention to the fact that they agreed to a court of six members on the stipulation conveyed in the treaty that members of said court would be impartial jurists, and in the hope that judges of the highest courts in the United States would be appointed as American commissioners, my ministers also agreeing that British commissioners should be judges of the highest standing.

"My ministers most strongly represent that this consideration, having been material in causing their assent to the treaty, should be made good, otherwise the ground upon which they based their assent would be changed, and it is feared *whole situation would require to be reconsidered.*

"My ministers would be ready to implement their part of the understanding as to the composition of British side of the commission, but do not think it advisable to submit their views until question raised about American commission is satisfactorily disposed of."

The Governor-General also telegraphed objections to the personal fitness of the American commissioners, declaring that they were not impartial.<sup>2</sup>

<sup>1</sup> Canadian House of Commons Debates, March 13, 1903, p. 34.

<sup>2</sup> This telegram has not been published. That there must have

In answer to the Canadian telegrams, the Colonial Office said (February 26):

"His Majesty's government were *as much surprised as your ministers* at the selection of the American members of the tribunal. The situation is full of difficulty, and His Majesty's government earnestly desire to have the concurrence of your ministers in dealing with it.

"His Majesty's government are convinced that it would be useless to press the United States to withdraw the names put forward, and arguments against the personal fitness of the three American representatives, however convincing, would fail to lead to any practical result.

"His Majesty's government are, therefore, virtually in the position of having to choose between breaking off the negotiations altogether, or of accepting the American nominations and *appointing as their colleagues representatives appropriate to the altered circumstances of the case*. The first alternative they would regard as a grave misfortune to the interests of Canada, and they would prefer that the inquiry should proceed, in the confident hope that it would not prejudice Canadian or British interests, since, even in the event of failure, much important information on the controverted points would be collected and placed before the public, thus facilitating a reasonable settlement of the question at some future date.

"His Majesty's government earnestly hope that your ministers will weigh these considerations carefully, and, if they share in the opinion stated above, will favor His Majesty's government with an expression of their views as to *the most advantageous manner of constituting the British portion of the tribunal*."

There is the old story. Downing Street is "as much surprised" as anybody that the United States would do such a thing, but recommends silence and acquiescence. For Downing Street comfort, that is undoubtedly much the best course. "It would be useless to press the United States to withdraw the names"; we should only get a refusal; is it not better to appear as though we were quite satisfied? It is very

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been such a message is shown by the reply to it, and by Sir Wilfrid Laurier's references in the House of Commons, March 13, 1903, p. 44; October 23, 1903, p. 14815.

essential that we should remain on good terms with the United States; and "arguments against the personal fitness of the three American representatives" — wheugh! just think what a row! Surely, instead of objecting to the American representatives it would be much better to appoint "as their colleagues, representatives appropriate to the altered circumstances of the case." Will not the Canadian government be kind enough to express "their views as to *the most advantageous manner of constituting the British portion of the tribunal*"? Poor Downing Street! To what depths will a British Colonial Secretary descend in order to remain on good terms with the United States!

Ratifications of the treaty had not yet been exchanged, and it was therefore not yet consummated. The British government had been duped, and had been "much surprised" at it. The Canadian government had protested, had indicated that the "whole situation would require to be reconsidered," and had declined going further (declined to submit views as to Canadian commissioners) "until question raised about American commissioners is satisfactorily disposed of." The Colonial Office in reply had suggested a dishonorable course of action. That was the situation when (March 3), without Canadian assent or concurrence, ratifications of the treaty were exchanged — no doubt with the customary handshaking and congratulatory speeches. Canada lost territory only by that transaction.

On October 23, 1903, Sir Wilfrid Laurier said in the House of Commons:

"Now, after we had given our assent to this treaty, after we had consented to refer the question to this tribunal, which was to be composed of six impartial jurists, we were notified that the jurists which were to be appointed by the American government were gentlemen who, with all respect be it said, could not qualify as impartial jurists. They had expressed their



opinions upon this question already with a good deal of emphasis. We protested against the appointment of these gentlemen, and we asked the British authorities to convey our protest to the President of the United States, representing that gentlemen who had expressed on the floor of Congress opinions upon this question could not come within the term 'impartial jurists,' such as were contemplated by the treaty. And, Sir, what took place? *Before our protest had been taken into consideration the treaty was ratified by the British authorities.*"<sup>1</sup>

*The United States had Won its Second Point.*

#### THE ALVERSTONE AWARD

Canada followed neither bad example nor evil suggestion. She nominated as arbitrators the Lord Chief-Justice of England, Mr. Justice Armour of the Canadian Supreme Court, and Sir Louis Jetté, Lieutenant-Governor of Quebec and formerly a judge of the Superior Court, as British commissioners. These were appointed. Shortly afterwards Mr. Justice Armour died, and Mr. A. B. Aylesworth succeeded to the vacancy.<sup>2</sup>

In due time the award was made and, as had been expected in Canada, Lord Alverstone sided with the United States. No compromise with the American commissioners being possible upon the first question (whether the boundary crossed, or ran round the ends of the inlets), he concurred in the full American contention. Upon the second and third, he compromised with the Americans, giving them, upon the second, a large part of what they claimed, and, upon the third, two islands out of the four.

*Compromise.* — Why should he not have compromised? Because he was appointed to act as a judge. The parties to

<sup>1</sup> Debates, 1903, Vol. VI, p. 14815.

<sup>2</sup> It was expected that Mr. Aylesworth was about to accept a seat in the Supreme Court, but he declined the offer made to him.

a quarrel may compromise, if they please; it is because they cannot agree that they go to courts; and the function of a judge is, not to compromise, but to decide.

Sometimes, indeed, disputes are referred to arbitrators (rather than to judges) and authority is given them to consider the equities and the reasonabilities of the case, as well as the strict right of the parties. That was the course adopted in the Venezuela case, and that was the course which Canada strongly desired should be applied to the Alaska dispute. But the United States absolutely and repeatedly refused to agree to a tribunal of that sort. Its position was made perfectly clear in a despatch from Mr. Choate (American Ambassador) to Lord Salisbury (January 22, 1900):

“The Venezuela Treaty was calculated, and, as the result has shown, well and properly calculated, to enable the tribunal *to make by compromise* a boundary line in respect of which there had never been an agreement between the parties, and to evolve a fair adjustment of their respective claims out of the facts of discovery, occupation, and other historical circumstances in which their dispute as to the boundary had been involved for more than a century, during which the question had been always open. But in the present instance there is an express agreement of the parties defining the boundary — in the treaty of 1825 — which has subsisted ever since, practically without dispute as to its interpretation on the principal point. A clear and distinct interpretation on this point was put upon it by both parties in the written negotiations which resulted in the meeting of their minds upon it. This interpretation was regarded by both parties as vital, and very important to their respective interests. It was publicly declared and acted upon by Russia from the date of the treaty until she conveyed to the United States in 1867, and all that time, at any rate, it was acquiesced in by Great Britain. The United States continued publicly to maintain and act upon the same interpretation, with the acquiescence of Great Britain, confessedly until 1885, and, as we claim, until 1898, when a new and wholly different interpretation on this main point is put forward by Great Britain. The two interpretations thus presented are absolutely distinct, and are not involved in any confused or doubtful his-

torical explorations. One or the other is right, and can and should be ascertained and determined so to be, to the exclusion of the other, and neither party wishes to acquire an inch of the territory rightly belonging to the other. *Surely the tribunal which is to pass upon such a question should not be enabled to compromise it, but should be required simply to decide it. If the difference thus raised is to be compromised, it should be compromised by the parties themselves, so that they can know exactly what they are doing.*"

The United Kingdom assented to this, and the arbitration treaty provided that each member of the tribunal should

"subscribe an oath that he will impartially consider the arguments and evidence presented to the tribunal and will *decide thereupon according to his true judgment.*"

It goes without saying that Lord Alverstone understood his position and the oath which he took; but if there should be any doubt upon that point, read what he said in his judgment upon the inlet question:

"But these considerations, strong as they are, in favor of a just and equitable modification of the treaty, do not in my opinion enable one to put a different construction upon the treaty."

In other words, he was bound to decide according to the treaty. He could not regard the equities. He had no right to compromise. Nevertheless, when dealing with the two other questions, he did compromise.

*The First Question.* — The inlet question was of the greatest importance. If the boundary line, instead of following the general trend of the coast, ran round the head of all the narrow inlets, then Canada had no ocean port for the Yukon Territory or for the northern part of British Columbia.

Lynn Canal, for example, is the most important of these inlets. It is ninety miles long and from two or three to seven or eight miles wide. Is that all ocean? Ought a line "par-

allel to the windings of the coast," and at the most ten leagues from it, to fall back one hundred miles?

It is impossible to give here a complete view of the arguments adduced upon this question, and no partial statement should be made. However strong the Canadian argument may have been upon the point, we must assume for the purposes of this essay (but for that purpose only) that they were not conclusive, and that it was possible for Lord Alverstone, acting conscientiously, to have decided in favor of the American contention.

Nothing can be said here, therefore, in impeachment of his judgment on this first question, except this: that if in discussing the second and third we find good reason to doubt his good faith, if we find conclusive evidence that his decision of one or both of them was dishonest, then we shall not be able to suppress the belief that all his decisions were of the same character.

*The Second Question.* — That Lord Alverstone's judgment upon the second question (Which are "the mountains situated parallel to the coast"?) was not a judicial decision, but a mere compromise with the Americans, is very clear. A glance at the map will show the two contentions, and the compromise line between them. Possibly, however, it may be said that the commissioners found that both contentions were wrong, and that the intermediate line was agreed to, not by compromise but by a truer interpretation of the treaty. That is not the fact. The proof is ample.

Canada contended that the boundary should "follow the summit of the mountains" lying nearest to the coast — mountains of any sort, whether joined together or separated from one another. The United States contended that mountains, to form a boundary, must constitute a connected range; that

“such mountains do not exist within ten marine leagues from the coast”<sup>1</sup>; and consequently that “the line was to be drawn at a uniform and regular distance of thirty-five miles (ten marine leagues) from the coast.”<sup>2</sup>

United States counsel said :

“The whole region is full of mountains. . . . The general appearance is that of a heterogeneous jumble of irregular mountain masses.

“It was never the intention under the treaty to draw the line along the summits of disconnected peaks, and it is impossible on the American theory for any tribunal to determine which of such peaks shall be chosen.”<sup>3</sup>

They ridiculed the possibility of such selection.

The decision of Lord Alverstone and the three American commissioners was very curious. They held that boundary mountains did exist within the ten leagues; that these mountains were not those nearest the coast; that they were somewhere else among the “heterogeneous jumble of irregular mountain masses”; and they selected certain summits and marked them upon a map with the letter *S*.

These four commissioners so decided; but not one of them attempted in their long written opinions to offer any reason for the selection of the *S* mountains. All that they said was

“that the mountains marked *S* on the aforesaid map are the mountains referred to as situated parallel to the coast.”

Why they declined to adopt the mountains nearest to the coast, they do not say. Why they did not pitch upon those farthest away, they do not say. By what process or upon what principle they selected the *S* mountains, they do not say. So far as the American commissioners in their written judgments express an opinion, it is against the selection of

<sup>1</sup> Case, p. 206.

<sup>2</sup> Judgment of Sir Louis Jetté, pp. 74, 75.

<sup>3</sup> Argument, p. 135.

the *S* mountains, and in favor of the American contention that the boundary ought not to follow mountains at all. Lord Alverstone omitted almost all reference to the subject.

Why, then, were the *S* mountains chosen?

The *S* mountain boundary was clearly a matter of compromise between Lord Alverstone and the American commissioners; and really the only point left for speculation is as to the length and nature of the negotiations leading up to the selection of these *S* mountains. Did Lord Alverstone haggle over them? or did he leave the details to the Americans, merely stipulating that Canada should get something not altogether too insignificant? Information upon that point would be interesting, even if useless.

How do we know that the judgment was a compromise and not a judicial determination? In this way:

1. The written (now printed) opinion of the American commissioners was in favor of the full American contention — that there was no mountain boundary at all, and that the line should run, irrespective of mountains, at a distance of ten leagues from the coast. After referring to twelve maps which they said “furnished an interpretation of the treaty,” they added:

“In all of these maps the boundary line is drawn around the heads of the inlets. It is not contended that this boundary line was an accurate location of the true boundary. In the absence of knowledge as to the mountains, it appears to have been drawn *on the ten-marine-league line*, measuring from the heads of the bays and inlets. It precludes no one from saying that the occurrence of a mountain crest within ten marine leagues of the coast would call for a change of the position of the line. But it is manifest that *in every case the line was drawn in accordance with the American theory* of what constituted the coast, and not in accordance with the theory now maintained by the counsel for Great Britain as to what constitutes the coast.”

If this is not a perfectly clear declaration in favor of the full American contention, all that can be said is that it is taken from their reasons for their opinion upon the inlet question; that they gave no reasons at all for their opinion as to the *S* mountains; and that we have thus to gather their opinion as to the mountain boundary from what they say when discussing the inlet question.

2. The American commissioners wrote long reasons for their opinions with reference to the inlets and the islands; why did they shun all argument in support of the *S* mountains? One specific question submitted to the commissioners was

“What, if any exist, are the mountains referred to as situated parallel to the coast, which mountains, when within ten marine leagues from the coast, are declared to form the eastern boundary?”

Why in reply did they say merely “the mountains marked *S* on the aforesaid maps”? Why did they refuse to give their reasons?

3. Lord Alverstone also gave long reasons for his opinion upon the inlet question, holding that upon that point

“the parties knew and understood what they were bargaining about and expressed the terms of their bargain in terms to which effect can be given.”

He gave no reason at all with reference to the *S* mountains; but, in his judgment upon the inlet question, he wrote as follows:

“I have felt it my duty to express the reasons which have led me to the conclusion to which I have come, that the answer to the fifth [the inlet] question should be in the affirmative, because I am constrained to take a view contrary to that presented by the advocates on behalf of Great Britain; but it must not be thought that I am insensible to the fact that there are strong arguments which might be urged in favor of the British

view. I have little doubt that, if shortly after the making of the treaty of 1825, Great Britain and Russia had proceeded to draw the boundary provided by the treaty in accordance with the terms thereof, *the difficulties, and, in certain events, the impossibilities*, of drawing a boundary in strict accordance with the treaty would have been made evident. If, for instance, it had become necessary to draw a boundary in accordance with paragraph 2 of Article IV of the treaty, I believe that the view expressed by both the American and British authorities, that *it is impossible to do so*, would at once have become apparent. And in the same way, *if the contention of the United States be well founded, that no mountains exist on the coast which correspond with the treaty, a further difficulty would have been made manifest.*"

These words Lord Alverstone used at the same moment that he declared that according to the treaty the *S* mountains formed the true boundary!

Observe that he speaks of "the difficulties, and, *in certain events*, the impossibilities, of drawing a boundary in strict accordance with the treaty." What were the "events"? Did they transpire? How were the difficulties or impossibilities surmounted, when he agreed to the *S* mountains?

Notice particularly that Lord Alverstone had not as yet made up his mind as to the validity of the American contention "that no mountains exist on the coast which correspond with the treaty." If, he said, that contention "be well founded, . . . a further difficulty would have been made manifest." And now the curious question is: If Lord Alverstone did not know whether such mountains existed, how did he ascertain that the eighty S summits belonged to them?

It may be that strong reasons can be given in support of the full American contention. That is not now under debate. We have it that ~~all the arbitrators agreed that that~~ contention was erroneous — they held that boundary mountains *did* exist within the ten-league limit. All that we are now endeavoring to ascertain is, why were the *S* mountains



selected? Lord Alverstone and the American commissioners give us no help. Let us turn to the Canadian commissioners.

Str Louis Jetté said:

"There is, therefore, no doubt in my mind that the mountains indicated by the treaty are those situated nearest to the coast.

"Nevertheless, instead of following the evident meaning of the treaty, the majority of the tribunal has adopted a line which, at a number of points of its course, rests on mountains which lie far from the coast, and are separated from it by nearer ones, which ought consequently to have been chosen in their stead, as the points of demarcation of the line.

"I found it impossible, under such circumstances, to concur in this arbitrary determination of a line which, although it does not concede all the territory they claimed to the United States, nevertheless deprives Canada of the greater part of that to which she was entitled."

Mr. Aylesworth said:

"The words of the treaty, '*montagnes situés parallèlement à la côte,*' and the idea of parallelism thereby conveyed, imply the line of mountains *next adjacent to the coast*. Apart from the circumstance that no kind of reason can be assigned for skipping over one or two, or it may be half-a-dozen, lines of mountains between the coast and the boundary, the very fact that the treaty couples the boundary line directly with the coast-line argues in favor of the first line of mountains being meant. I think any one who spoke of two lines as parallel one to the other would scarcely have in contemplation a third line parallel to each, but situated between the two."

*The Third Question.* — Differ, if you will, from the conclusions just arrived at, but read the proof of Lord Alverstone's treachery in connection with the four islands — in connection with the southern boundary — and quarrel with that if you can. The description of that boundary declared that, commencing at Point Muzon on Prince of Wales Island,

"the said line shall ascend to the north along the channel called Portland Channel."

But where was the entrance to Portland Channel? In their printed case, the Americans stated the opposing contentions:

"The British Case, p. 50, correctly states that 'as to the greater part of the length of the Portland Channel above shortly described, there is not, and could not be, any dispute.' Reference to the charts will show that, at any rate, that portion of the westerly water which extends inland from the upper end of Pearse Island to the head of the channel marked Portland Canal must be comprised in Vancouver's Portland Canal. And this is the common case of both sides. The dispute is as to the remainder of the channel.

"That is to say, the matter which remains in dispute is this: Is Portland Channel, below the point of agreement, that body of water which goes seaward between Pearse, Wales, Sitklan, and Kannaghunut Islands on the east and south and the continental shore, Fillmore and Tongass Islands on the west and north; or is it that body of water which goes seaward between Pearse Island and the peninsula, passes Ramsden Point, in (or at the entrance of) Observatory Inlet, and reaches the ocean by the channel between Pearse and Wales Islands on the west and the easterly continental shore, entering the ocean between Point Wales on the west and Point Maskelyne on the east?"<sup>1</sup>

That is to say, is the boundary line on the north or the south of the four islands? During the argument, the Americans contended, in the alternative, that both of these bodies of water might be considered as Portland Channel; and that the one to the south of the four islands, being the larger, should be preferred "upon the doctrine of the thalweg."

After the arguments had been completed Lord Alverstone informed the Canadian commissioners that, in his opinion, the Canadian contention was the true one; namely, that the boundary lay to the north of the four islands. Afterwards he wrote a judgment to that effect, and gave a copy of it to the Canadian commissioners, which they still have. It was to this judgment that the Canadian commissioners referred

<sup>1</sup> Argument, p. 31.

in their communication to the *Times*, the day after the award was published:

"When the members of the tribunal met after the argument and considered this question, the view of the three British commissioners was that the Canadian contention was absolutely unanswerable. A memorandum was prepared and read to the commissioners embodying our views; and showing it to be *beyond dispute* that the Canadian contention on this branch of the case should prevail, and that the boundary line should run to the northward of the four islands, thus giving them to Canada."

No intimation of any change of view was given by Lord Alverstone to the Canadian commissioners, and they had no reason to suspect any, until the final meeting of all the commissioners when the decisions were declared. Meanwhile, however, Lord Alverstone had been negotiating with the American commissioners and had agreed to a compromise — had agreed that the United States should have two of the islands and Canada the other two; had agreed to award that the entrance to Portland Channel was at a place for which there was not a tittle of evidence, which the Americans had never claimed, and in favor of which American counsel had not advanced a single argument.

I say that, after writing a judgment in which he declared that the four islands belonged to Canada and that he could find nothing to throw any doubt on that conclusion, Lord Alverstone made a compromise with the American commissioners and gave two of the islands to the United States. The proof is clear.

Lord Alverstone acted as president of the commission. As such, when the last meeting was held (October 20, 1903), instead of putting to the vote the only question argued:

"Does Portland Channel run to the north or south of the four islands?"

he first asked:

“Does Portland Channel run to the north of Pearse and Wales Islands?”

And the American commissioners voted with Lord Alverstone and the Canadian commissioners, that it ran to the north of these islands — that these islands belonged to Canada.

Imagine the surprise of the Canadians. Had a thaw happened in Hades? Wait a moment:

“Does the Portland Channel run to the north of Sitklan and Kannaghunut Islands?”

And Hades grew hotter as Lord Alverstone joined with the Americans in voting that it did not. Remember that until that moment there had not been a suggestion that the line could possibly run anywhere but north or south of all four islands.<sup>1</sup> Without a previous agreement with Lord Alverstone, the American commissioners would have been as much surprised as the Canadians at Lord Alverstone's separation of the question into two parts. And without Lord Alverstone's promise to vote with the Americans upon the second part of the question, they would not have voted in favor of Canada on the first part. As Mr. Wade, one of the Canadian counsel, has said:

“If this was not a compromise, is it not singular that at the moment when the United States commissioners decided to change their mind as to two of the islands, and Lord Alverstone decided to change his judgment as to the other two, his Lordship was the one to come forward with a subdivided question which just met the new conditions?”<sup>2</sup>

(The bargain is clearly proved. The American commis-

<sup>1</sup> Mr. Turner's interpolations at pages 77 to 79 do not affect the correctness of this assertion.

<sup>2</sup> *Canadian Magazine*, Vol. 22. For confirmation of the facts above stated see the judgment of Sir Louis Jetté at page 68 of the “Correspondence respecting the Alaska Boundary” (Cd. 1877).

sioners voted in favor of Canada as to two islands, in consideration that Lord Alverstone would vote against Canada as to the other two.

But is it not possible that Lord Alverstone had merely reconsidered the subject and changed his opinion? No; for the very simple reason that no reconsideration of the arguments addressed to him could have led to a division of the islands. No such argument had ever been made. Division was never thought of or suggested by anybody until the compromise was agreed to.

If that answer as to the possibility of change of conviction is not sufficient, look at the judgment which Lord Alverstone filed in support of the division. Study it a little carefully, and these most remarkable, nearly incredible, facts will appear:

1. Almost every argument in it supports Canada's title to all four of the islands.

2. Almost every argument in it condemns its conclusion — six paragraphs of it abundantly refute its final deductions.

3. With the change of one word in one clause; the omission of two words in another clause; and the interjection of one whole clause, *this second judgment of Lord Alverstone is really his first judgment* — the memorandum handed to the Canadian commissioners, in which he showed the Canadian ownership of all four islands "to be beyond dispute."

Now is that possible? Lord Alverstone wrote a long reasoned judgment deciding clearly and without hesitation in favor of awarding all the four islands to Canada; afterwards he wrote another judgment giving two of those islands to the United States; in that second judgment he repeated every argument that he had advanced in the first; although he changed one word, omitted two, and interjected a single paragraph, yet not one of these alterations materially supported his second conclusion, and not one of them was in-

consistent with his first conclusion; and of the seven clauses which in the first judgment support Canada's title to all four islands, five reappear unaltered in the second judgment, and one has a verbal, an immaterial, alteration only. That is what is alleged. Is that possible?

We must read the second judgment and comment upon it as we go. A little attention to it will enable us to reconstruct the first judgment, for we shall require merely:

1. To copy all the introductory and therefore common clauses.
2. To copy all the arguments that support Lord Alverstone's first conclusion.
3. For these purposes to copy *every clause in the judgment except one* (we may speak of it as the interjected paragraph).
4. Changing, however, one word in one clause and adding two in another — the former change being of some importance, but the latter of none.

LORD ALVERSTONE'S SECOND JUDGMENT AS TO PORTLAND CHANNEL <sup>1</sup>

1. "The answer to this question, as indicated by the learned counsel on both sides, depends upon the simple question: What did the contracting parties mean by the words 'the channel called the Portland Channel' in Article III of the treaty of 1825? This is a pure question of identity. In order to answer it one must endeavor to put one's self in the position of the contracting parties, and ascertain as accurately as possible what was known to them of the geography of the district so far as relates to the channel called the Portland Channel."

(This paragraph was no doubt in the first judgment.)

2. "There are certain broad facts which, in my opinion, establish beyond any reasonable question that the negotiators

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<sup>1</sup> Printed in British Blue Book (Cd. 1877), p. 52, "Correspondence respecting the Alaska Boundary."

had before them Vancouver's maps, the Russian map (No. 5 in the British, No. 6 in the American atlas), Arrowsmith's maps (probably the map numbered 10 in the American atlas), and Faden's maps (British Appendix, pp. 10 and 11)."

(This paragraph was no doubt in the first judgment.)

3. "I have, moreover, no doubt that the negotiators were acquainted with the information contained in Vancouver's narrative. I do not think it necessary to state in detail the evidence which has led me to this conclusion beyond stating that, quite apart from the overwhelming probability that this was the case, there are passages in the documents which, in my judgment, establish it to demonstration; but, for the purpose of my reasons, it is sufficient to say that I have come to that clear conclusion after the most careful perusal of the documents."

(This finding is in favor of the Canadian and against the American first contention. The United States relied upon Vancouver's map. Canada contended that Vancouver's narrative should be read with the map. The finding was essential to Lord Alverstone's first judgment, and no doubt formed a part of it. It is consistent with the second judgment.)

4. "I will now endeavor to summarize the facts relating to the channel called Portland Channel, which the information, afforded by the maps and documents to which I have referred, establishes. The first and most important is that it was perfectly well known before, and at the date of the treaty, that there were two channels or inlets, the one called Portland Channel, the other Observatory Inlet, both of them coming out to the Pacific Ocean."

(This paragraph was no doubt in the first judgment.)

5. "That the seaward entrance of Observatory Inlet was between Point Maskelyne on the south and Point Wales on the north."

(This paragraph was no doubt in the first judgment.)

6. "That *one* entrance of Portland Channel was between the island now known as Kannaghunut and Tongass Island."

(This paragraph, with the substitution of the word "the" for "one," was no doubt in the first judgment. Observe that in this, the second, judgment Lord Alverstone clearly affirms that at least one entrance to Portland Channel lies to the north of all four islands. And (1) watch if he anywhere declares that there was undoubtedly a second, (2) if he does so declare, watch if he anywhere compares the claims of these two, and (3) watch if he does more than mention the possibility of a second.)

7. "That the latitude of the mouth or entrance to the channel called Portland Channel, as described in the treaty and understood by the negotiators, was at 54° 45'."

(This clause was undoubtedly a part of the first judgment. It is in irreconcilable conflict with the conclusion of the second, for it gives the four islands to Canada. The very point in dispute was whether the entrance was, as Canada said, at 54° 45', or, as the United States contended, at 54° 40'. The American printed argument dealt with the subject at great length<sup>1</sup> and concluded in this way:

"There is therefore no warrant for the following statement in the British case (p. 56): 'This shows that the British understanding, communicated to and not questioned by Russia, was that Portland Channel entered the ocean at 54° 45'.'"<sup>2</sup>

Lord Alverstone having now declared the exact location of the entrance, we shall expect that if he adds anything further to his judgment it will be for the purpose of supplying reasons in support of his declaration. The first judgment did proceed in that way. It supplied several arguments in support of the declaration. We know that, for we shall read them, in a minute, in this his second judgment, where they are completely out of place. The new—the interjected—paragraph alone separates us from them. It is a curiosity.)

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<sup>1</sup> See "Correspondence respecting the Alaska Boundary" (Cd. 1878), pp. 21 to 56.

<sup>2</sup> *Ib.* p. 48.



8. "The narrative of Vancouver refers to the channel between Wales Island and Sitklan Island, known as Tongass Passage, as a passage leading south-southeast towards the ocean — *which he passed* in hope of finding a more northern and westerly communication to the sea, and describes his subsequently finding the passage between Tongass Island on the north and Sitklan and Kannaghunut on the south. The narrative and the maps leave *some doubt* on the question whether he intended the name Portland Canal to include Tongass Passage, *as well as* the passage between Tongass Island on the north and Sitklan and Kannaghunut Island on the south. In view of this doubt, I think, having regard to the language, that Vancouver *may have intended* to include Tongass Passage in that name, and looking to the relative size of the two passages, I think the negotiators *may well have thought* that the Portland Channel, after passing north of Pearse and Wales Islands, issued into the sea by the *two* passages above described."<sup>1</sup>

(This is the only paragraph of the two judgments that could not very well have formed part of the first.

To prevent confusion we must keep clearly separated the two entrances to Portland Channel contended for by the Americans, and the two entrances suggested as possible by Lord Alverstone.

The Americans suggested that one entrance lay to the north of *all* four islands and the other to the south of them; and they claimed the latter "upon the doctrine of the *thalweg*." This claim is dealt with by Lord Alverstone in clause 13 of his judgment (*post*) and held to be without foundation.

The two possible entrances to which Lord Alverstone makes reference are, first, that which runs north of all four islands

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<sup>1</sup> In connection with this clause should be read a paragraph of Mr. Aylesworth's judgment: "There is simply not the slightest evidence anywhere that I am able to find, that either Vancouver or any subsequent explorer or map-maker ever considered, or so much as spoke of, Portland Channel as having *two* entrances to the ocean."

The italics here and elsewhere are not in the original.

(the same as the first of the American alternatives) and second, that which would pass down Tongass Passage—that is, between two of the islands.

Observe that of these two last possibilities, Lord Alverstone has said, with confidence, that the one to the north of all four islands was “one entrance to Portland Channel”; and as to the other, that Vancouver “*may have intended*,” and that “the negotiators *may well have thought*” it to be one entrance. One was clear and the other was doubtful.

What, then, shall we expect in the remaining clauses of the judgment—expect, before we reach the conclusion that the certain entrance was not, but that the doubtful one was, the true one? Some discussion of their respective claims? Some reasons? Yes, no doubt. But we should be wrong. There is not a word upon the subject. This doubtful entrance—Tongass Passage—is never again referred to. The remaining paragraphs of the judgment are those which appeared in the first judgment, giving conclusive reasons in favor, not of the doubtful passage, but of the certain one—the one to the north of all four islands. And yet the conclusion of the judgment is in favor of the doubtful passage!

Before proving this assertion, let it be noted that Lord Alverstone’s surmise as to his two entrances is quite beyond all probability. Lord Alverstone would have us suppose that the representatives of Great Britain and Russia were declaring that their boundary should be a line along Portland Channel; that they thought that that channel bifurcated and had really two mouths; and that they did not specify which one they had agreed upon! That is what Lord Alverstone thinks that the negotiators *may have done*. No one else ever thought so.

Suppose, however, that Lord Alverstone was right in his suggestion that Vancouver *may have intended* two entrances, and that the negotiators *may well have thought* the same thing, there could have been no reason for hesitating between the two. Had Lord Alverstone been honest he would have said, “But although Vancouver *may have intended* two entrances, no one has ever heretofore suggested that he did; no one pretends that he was ever in Tongass Passage; no one has written or spoken a word in favor of Tongass Passage as the entrance, or as one entrance, to Portland Channel; during the whole length of the argument of the American counsel I heard not a syllable in favor of any such proposition; and I cannot myself think of anything which supports it.”

Instead of this, Lord Alverstone having declared that there *may have* been two entrances, proceeds to give various reasons for selecting one of them; and then decides in favor of the *other*. Is that possible?)

9. "For the purpose of identifying the channel, commonly known as Portland Channel, the maps which were before the negotiators may be useful. This is one of the points upon which the evidence of contemporary maps as to general reputation is undoubtedly admissible. It is sufficient to say that not one of the maps which I have enumerated above in any way contradicts *the precise and detailed situation of Portland Channel* and Observatory Inlet given by Vancouver's narrative, and the other documents to which I have referred. The Russian map of 1802 *shows the two channels distinctly*, and the same may be said of Faden's maps, on which so much reliance was placed on the part of the United States."

(This clause was undoubtedly in the first judgment. It is completely out of harmony with the second for several reasons:

1. It is, in the second, out of logical sequence; it follows a clause which declared that there may have been two entrances to Portland Channel; and we should therefore have expected the present paragraph to commence the statement of reasons for selecting one or the other of them. But there is not a word upon that subject.

Upon the contrary, the present paragraph abandons the interjected suggestions of Lord Alverstone's two entrances to Portland Channel and returns to the discussion of the situation of the two channels — Portland Channel and Observatory Inlet — that is to a discussion of the Americans' first contention.

That the interjected clause was really interjected may be proved by observing that if it be struck out the sequence of the document is restored; for it will now read in this way:

(Par. 4): "There were two channels, Portland and Observatory"; (Par. 5): "The seaward entrance of Observatory Inlet was" so and so; (Par. 6): "The entrance of Portland Channel was" so and so; and now, "not one of the maps . . . contradicts the precise and detailed situation of Portland Channel and Observatory Inlet," etc.

2. The clause under consideration contradicts almost in terms the interjected clause. In that clause Lord Alverstone said that "the narrative and maps *leave some doubt* on the question," etc. Now it is said that "not one of the maps which I have enumerated above in any way contradicts *the precise and detailed situation of Portland Channel.*"

3. Observe, at all events, that there is nothing in the paragraph in favor of Tongass Passage.)

10. "I do not attach particular importance to the way in which names on the maps are written or printed, and therefore I do not rely upon the fact that, in the case of some of these contemporary maps, the words 'Portland Channel' are written so as to include within the name the lower part of the channel which is in dispute. From long experience I have found that it is not safe to rely upon any such peculiarities."

(This clause was undoubtedly in the first judgment. It pursues the sequence above pointed out. It is still distinguishing Portland Channel from Observatory Inlet — still combating the Americans' first contention. It has no reference whatever to the two possible entrances of the interjected paragraph. These are still ignored — Tongass Passage is still unmentioned.)

11. "After the most careful consideration of every document in this case, I have found nothing to alter or throw any doubt on the conclusion to which I have arrived, and there are certain general considerations which strongly support it."

(Reading the first judgment (as above indicated), this clause is perfectly appropriate. Lord Alverstone had clearly defined Portland Channel and Observatory Inlet; had stated with absolute precision the entrance of each of them; had said "that not one of the maps" contradicts the "precise and detailed situation" given by Vancouver's narrative; and now he says that he has "found nothing to alter or throw any doubt on the conclusion to which I have arrived" — any doubt that the Canadian contention is correct.

In his second judgment Lord Alverstone, by altering a word in one clause (6) and interjecting another clause (8), had changed

his conclusion into a problem — had said, not that the entrance to Portland Channel was so and so, but that there *may* have been two entrances. And now he says of the problem as before he said of the conclusion: "I have found nothing to alter or throw any doubt on the conclusion to which I have arrived."

There is still not a word in favor of Tongass Passage.)

12. "Russia and Great Britain were negotiating as to the point on the coast to which Russian dominion should be conceded. It is unnecessary to refer to all the earlier negotiations, but it is distinctly established that Russia urged that her dominion should extend to 55° of latitude, and it was in furtherance of this object that *Portland Channel, which issues into the sea at 54° 45', was conceded and ultimately agreed to by Great Britain. No claim was ever made by Russia to any of the islands south of 54° 45', except Prince of Wales Island, and this is the more marked because she did claim the whole of Prince of Wales Island, a part of which extended to about 54° 40'. The islands between Observatory Inlet and the channel to which I have referred above as the Portland Channel are never mentioned in the whole course of the negotiations.*"

(This clause was undoubtedly in the first judgment. It is absolutely inconsistent with the second for three clear reasons: (1) The exact latitude is given, and that agrees only with the Canadian contention; (2) Russia never claimed islands south of 54° 45'. It therefore never claimed the two islands that Lord Alverstone gave to Russia's successors, the United States; (3) The language, "the channel to which I have referred above as Portland Channel," was quite appropriate in the first judgment, but is meaningless in the second, for in the second Lord Alverstone had said that part of the channel may have been in one of *two* places, and as yet he has not specifically declared which is the true one.

Not a syllable yet in favor of Tongass Passage.

Thus far (excepting the interjected paragraph) Lord Alverstone has been dealing with the Americans' first contention — that Portland Channel lay to the south of the four islands. He has decided against that view; and he now turns to the alternative contention:)

13. "It is suggested on behalf of the United States that Portland Channel included both the channels; namely, the channel coming out between Point Maskelyne and Point Wales, and that running to the north of Pearse and Wales Islands, and that, upon the doctrine of the thalweg, the larger channel must be taken as the boundary. It is sufficient to say that, in my opinion, there is no foundation for this argument. The lengths and the points of land at their entrances are given in the case of each channel by Vancouver in a way which precludes the suggestion that he intended to include both channels under one name, and it must be remembered that he was upon a voyage of discovery, and named these channels when he had discovered and explored them."

(This clause, with the insertion of the words "Sitklan and Kannaghunut" after the word "Wales" and before the word "islands," was almost certainly a part of the first judgment. When changing the conclusion of his first judgment, Lord Alverstone struck out the names of those two islands, intending probably that the clause should thus be brought into harmony with the altered conclusion. But elision of the names effected nothing. The clause still refers to the two channels which the United States had compared with one another for the purposes of the doctrine of the thalweg. These two channels were the one to the north and the other to the south of the four islands.

Speaking then of these two channels, Lord Alverstone says: "The lengths and the points of land *at their entrances* are given in the case of each channel by Vancouver in a way *which precludes the suggestion that he intended to include both channels under one name*, and it must be remembered that he . . . named these channels when he had discovered *and explored them*."

Lord Alverstone therefore declared, as to the two channels about which he was speaking, that one of them only was Portland Channel; that Vancouver had explored both of them; that he had given "the lengths and the points of land *at their entrances*," and that he had named them when he "discovered *and explored them*."

We have therefore these results:

1. The clause was a part of the first judgment and was pertinent and important there.

2. In transferring it to the second judgment, Lord Alverstone elided the names of two of the islands.

3. Such elision had no effect upon the meaning of the clause.

4. The clause is a clear decision against the American alternative contention that Portland Channel included the passage to the south of the islands as well as that to the north of them.

5. It is also a decision that the true entrance to Portland Channel was *not* the Tongass Passage.

(a) Because it shows that the entrance to Portland Channel was "explored" by Vancouver, whereas Vancouver never explored Tongass Passage.

(b) And because it shows that Vancouver gave "the lengths and points of land" at the entrance to Portland Channel; whereas Vancouver never was at the entrance of Tongass Passage.

8. The clause therefore completely contradicts the conclusion of the second judgment.

There is but one paragraph more before we reach the decision that Tongass Passage is the true boundary. So far all that has been said for it is that Vancouver "may have intended" it as one of two entrances, and that "the negotiators may well have thought" that there were "two passages." A good deal, moreover, has been said against its being the boundary. There is but one paragraph left in which to establish its claims. Let us read it.)

14. "Inasmuch as the question submitted to us only involves the determination of the channel described in the treaty by the words already cited, 'the channel called Portland Channel,' subsequent history can throw no light upon this question; but I think it right to say that the use in the year 1853 of the name Portland Inlet in the British Admiralty Chart, upon which much reliance was placed on behalf of the United States, has, in my opinion, no bearing upon the question; and the references to Tongass Island in 1835 as being on the frontier of the Russian Straits, and in 1863 as being

on the north side of the Portland Canal, and in 1869 as to Tongass being on the boundary between Alaska and British Columbia, are strongly confirmatory of the view at which I have arrived upon the consideration of the materials which were in existence at the date of the treaty."

(This clause was, no doubt, word for word, in the first judgment; and thus evidence that was "strongly confirmatory" of one view in the first judgment is apparently declared to be "strongly confirmatory" of the contrary view in the second.

Observe that every argument of the clause supports the Canadian contention and condemns Tongass Passage. After repelling an argument "upon which much reliance was placed on behalf of the United States," the language is, "and" three specified facts "are strongly confirmatory of the view at which I have arrived." The use of the conjunction "and" shows the continuity of the line of thought — of the intention to continue the refutation of the American contention.

More conclusive, however, than the phraseology is the fact that the three specified facts are, beyond all controversy, "strongly confirmatory," not of the conclusions of Lord Alverstone's second judgment, but of those of his first. They contradict the second:

1. Tongass Island is "on the frontier of the Russian Straits." If so, Lord Alverstone's first judgment was right, and his second wrong. Look at the map.

2. Tongass Island is "on the north side of the Portland Canal." That fact confirms the first judgment, and refutes the second.

3. Tongass Island is "on the boundary between Alaska and British Columbia." If so, why did Lord Alverstone replace a judgment which so declared by one which denied it?)

(We are now ready for the decision. Lord Alverstone has followed two lines of argument. Down to and inclusive of clause twelve (excepting the interjected paragraph) he has discussed and disposed of the Americans' first contention. In clause thirteen he has declared the alternative argument to be untenable. He has interjected a suggestion of a possible entrance by Tongass Passage; but he has said not a word in its favor, and has by various arguments proved the impossibil-



ity of its being accepted as the boundary. The reasoning leaves room for but one conclusion; but we shall get not it, but its contrary:)

15. "I therefore answer the second question as follows: The channel which runs to the north of Pearse and Wales Islands, and issues into the Pacific between Wales and Sitklan Islands.

"ALVERSTONE."

(Tongass Passage is the boundary! And that which the present writer principally resents is not Lord Alverstone's treachery, not even his gift of the two islands to the United States, but his contemptuous indifference in leaving on record the arguments which establish our case and affixing to it a decision against us. Does he really imagine that among all the "colonials" there is no one with wit enough to detect the imposition, or with courage enough to denounce it?)

If our reconstruction of the first judgment be accurate, the two will compare in this way:

*"What Channel is the Portland Channel?"*

*First Judgment:*

1. The answer to this question, as indicated by the learned counsel on both sides, depends upon the simple question: What did the contracting parties mean by the words "the channel called the Portland Channel" in Article III of the treaty of 1825? This is a pure question of identity. In order to answer it one must endeavor to put one's self in the position of the contracting parties, and ascertain as accurately as possible what was known to them of the geography of the district so far as relates to the channel called Portland Channel.

*Second Judgment:*

1. The same.

*First Judgment:*

2. There are certain broad facts which in my opinion establish beyond any reasonable question that the negotiators had before them Vancouver's maps, the Russian map (No. 5 in the British, No. 6 in the American atlas), Arrowsmith's maps (probably the map numbered 10 in the American atlas), and Faden's maps (British Appendix, pp. 10 and 11).

3. I have, moreover, no doubt that the negotiators were acquainted with the information contained in Vancouver's narrative. I do not think it necessary to state in detail the evidence which has led me to this conclusion beyond stating that, quite apart from the overwhelming probability that this was the case, there are passages in the documents which, in my judgment, establish it to demonstration, but, for the purpose of my reasons, it is sufficient to say that I have come to that clear conclusion after the most careful perusal of the documents.

4. I will now endeavor to summarize the facts relating to the channel called Portland Channel, which the information afforded by the maps and documents to which I have referred establishes. The first and most important is that it was perfectly well known before, and at the date of the

*Second Judgment:*

2. The same.

3. The same.

4. The same.

what we here and there see were but the expressions of a feeling that relief from some grievances could be obtained only by separation from him. These episodes were always short-lived. Most of us are not old enough to remember one of them. Good Queen Victoria always received Canadian acclaim, and for her worthy son we have the greatest admiration and affection. The present road — the road which Canada has travelled for one hundred and fifty years — has not then taken us a single step from monarchy — from the monarch that wears the British crown.

Turning now to the British government, as distinguished from the British King, observe that in the United Kingdom, during these one hundred and fifty years, sharp criticism and strenuous opposition have been directed against every government that has ever been formed, and that every government but the present one has been deposed and turned out of office by the votes of the people.

Every British government encountered opposition not only "at home" (is the expression familiar to your ears?) but in Canada also; and, curiously enough, while British opposition to these governments was thought to be quite right, Canadian opposition to them was decried as not merely presumptuous but disloyal.

Note now the difference between the power of the two oppositions, — the British and the Canadian. The British could turn the government it disliked out of office and substitute one that it approved. But the Canadian could do nothing. It had no vote, and it sent no member to Parliament to represent it there. Canada merely waited until, for reasons of their own, British electors condemned the government.

And the Canadian situation was a great deal worse than that, for a change of government in the United Kingdom

meant nothing to Canada. The new one was no more acceptable to Canada than its predecessor, for Canadians having no votes, the attitude of the ministers of the day was not affected by the elections. A change meant merely that a new man became Colonial Secretary — usually one who knew nothing about the colonies. The old Colonial Office officials pursued the same old methods, and the same old despatches went out over the signature of a man who lacked the experience of his predecessor. That was all.

Canadian opposition therefore was not directed particularly against one or other of the political parties in the United Kingdom, but against the Colonial Office, and with that institution Canada was in perpetual conflict over the great question of the right to govern Canadians.

Canada and the Colonial Office were engaged in a tug-of-war. Each was hauling at the end of a rope called "government." At first Canada had but a precarious grip — she had few people and but a short piece of the rope. What she had, however, was well belayed round her sturdy maples, and she never lost an inch of it. On through the years she struggled, gaining a little here and there, and always deftly taking in the slack.

A great man arose in the Colonial Office, James Stephen, first counsel and afterwards Under-Secretary — a remarkable member of a remarkable family. Now and then he willingly (an Upper Canada Governor said traitorously) let go a few more fathoms of the rope, and Canadians gladly gathered it in. Lord Durham came in 1838, and on his return issued his famous report, the "charter of colonial liberties"; responsible government was voted unanimously in the first session of the first Assembly of United Canada; and since that date (1841) Canada has had the long end of the rope. From 1867, when the Canadian Federation took joint hold of it, eventual pos-

session of every foot of it has never been doubtful. In 1870 the North-West joined us, and in 1871 our end of the rope was long enough to give British Columbia a grip of it. I may again be wrong, but my notion is that no part of that rope will ever recross the ocean.

It is a grand story, that of Canada's fight for freedom — for the great British right of self-government, and it is full of interesting and even exciting dramatic incident. All Canadians should know it well. It is the chiefest part of Canadian history. And when we know it, we know the political road which Canada has persistently and with the most unswerving determination pursued from the commencement of her history down to the present day.

That road, need I say, is the road which leads to completest self-government. At every stage of it there have been many of our own people (often some of the best of them) who thought that we had gone far enough, and who deprecated any further advance. But Canada as a whole has never faltered and never hesitated. As she grew stronger the feeling — the sentiment (let us note it) — has also grown stronger, that Canadians better than anybody else know what is best for themselves.

Observe now that the road of Canada's political development has not led us an inch from the British King, but that it has led us towards completest self-government.

What, now, is our present position? You know it, and I shall not dwell upon it. We are very near the end of the road. Practically, although not theoretically, we enjoy legislative independence and administrative independence; we make our own tariffs; we tax the British manufacturers as we please, and do not now receive official remonstrance; we negotiate with foreign states for reciprocity arrangements; and by sending Mr. Lemieux to Japan, we have added a long

step to our previous advance towards the management of our own foreign affairs.

We are so very nearly independent that the British government itself has given us (at the recent Conference) the clearest and most satisfactory acknowledgment of that fact. Take the language of the British Prime Minister:

“We found ourselves, gentlemen, upon freedom and independence — that is the essence of the imperial connection. Freedom of action on the part of the individual states, freedom in their relations with one another and with the mother country.”

The Colonial Secretary (the first of his kind) said that he concurred

“in the principle which the Prime Minister laid down, that is to say, the freedom and independence of the different governments which are part of the British Empire.”

And the Chancellor of the Exchequer and the Under-Secretary of State for the Colonies spoke to the same effect. After those speeches, gentlemen, let no Canadian be afraid to speak of Canadian independence. It is “the essence of the imperial connection.” Not every one understands that; but to those who have studied the question it is now very clear. Sir Wilfrid Laurier has again and again given expression to it. I am not aware that Mr. Borden has done so in precise language, but all that he has said has been in hearty accordance with it.

We are now probably agreed that the road which Canada has been following leads to complete self-government — that is, to independence under the British Sovereign, and that there is no appearance of halting upon that road. Now what precisely in such case would be our position?

We should be free from control by anybody but ourselves; we should cease to be subordinate; we should be upon a

footing of political equality with the United Kingdom itself; and we should not be a British Dominion "beyond the Seas," but a Canadian kingdom on this side of the seas in connection with the British Empire "beyond the Seas." We should be what the fathers of our federation looked forward to and hoped that we should be. We should have worked out the destiny which they foretold and of which they laid so well the foundations. It was Sir John A. Macdonald himself who wished for the title, "The Kingdom of Canada," and it was he who said that he had in view

"the noble object of founding a great British monarchy in connection with the British Empire and under the British Queen . . . recognizing the Sovereign of Great Britain [not the Colonial Office, you will observe] as its sole and only head."

We should be, as the Marquis of Lorne somewhat prophetically said to us when leaving Canada:

"You are not the subjects, but the allies of a great country, the country that gave you birth."

The language may be unfamiliar, but the fact nevertheless is that King Edward is to-day the King of Canada. Shall not the future make us a kingdom, or shall we always be some sort of an inferiority?

Gentlemen, I think we now see the end of the present road. Let us consider the chances of deflection from it.

One word only as to the alternative between a kingdom under the British Sovereign and a kingdom under separate sovereignty. For my own part a desire to remain in connection with "the old country"; a feeling that the full blaze of royalty would be something unaccustomed and possibly for a time not a little irksome; and a perfect contentment with our Governors-General, more especially may I say with the present most genial and popular occupant of Rideau

Hall — all these contribute to the conclusion that in this respect we shall not diverge from the present road of our political development.

Another possibility is that we may unite with our neighbors to the south. I do not know the future. In some far-off year, under some unforeseen circumstances, such may be the destiny of Canada. A racial war with the Asiatic millions may throw us into war-union with the United States, and battle-comradeship may lead, as it often does, to political partnership. I am not a prophet. All that I say at present is, that the present road does not lead to union with the United States, and I see no tendency to turn in that direction.

The second possibility — an independent republic — is a result less probable than the one we have just considered. We may discard it.

But what of our third possibility, Imperial Federation? In 1884 the Imperial Federation League was formed, declaring as its fundamental assertion

“that in order to secure the permanent unity of the Empire, *some* form of federation is essential.”

But the League could not suggest any form. It lectured and published, and finally went to Lord Salisbury (1891), asking him to call a Colonial Conference to consider the question. In reply Lord Salisbury declined to do so until he had some proposal to lay before the Conference.

“We are almost come,” he said, “to the time when schemes should be proposed . . . without them we should not get very far.”

Not being able to agree upon any scheme, the League dissolved in 1893, and no other such league has ever since been formed.

The truth was that discussion had proved that Imperial



Federation was impracticable. Imagine the reception which would be given in the United Kingdom to any proposal that the colonies should have *pro rata* representation in the British Parliament — a representation that would soon outnumber the British members! What would they do with us? And more particularly what should we do with them? Federation is impossible.

The "New Imperialists," as I believe they call themselves, have completely discarded the idea of a present Federal Parliament. Sir Frederick Pollock, for example, who came here as their spokesman a short time ago, after pointing out that it would involve modifications in the jurisdiction of the existing legislatures, continued in these words:

"I am not aware of any reason for thinking that the Parliament of the United Kingdom would easily be persuaded to reduce itself by a solemn act to a mere state legislature, or that the colonial governments would be willing to surrender any substantial part of their autonomy to some new Federal Senate or Council."

And speaking of the other alternative, he said:

"No one, I believe, is now found to advocate a direct representation of the colonies in Parliament."

Mr. Chamberlain, at the outset of his imperialistic efforts, recognized the same thing, and he admitted the hopelessness of even framing a proposal for Imperial Federation. In 1896, referring to the history of the League, he said:

"During its career it was again and again challenged to produce a plan, and it was unwilling or unable to answer the challenge. Sir, I think we may, at all events, learn from its experience that the realization of our hopes, if they are in the direction of a federation of the Empire — their final realization — is a matter of such magnitude and such great complication that *it cannot be undertaken at the present time.*"

What could not be done in the lump, so to speak, Mr.

Chamberlain set himself to accomplish by instalments. With great courage, versatility, and persistence he proposed one bit of federation after another, only to meet defeat and failure upon every point. He failed, if for no other reason than because at the very outset he told us quite frankly that his object was

“to create a new government for the British Empire — a new government with large powers of taxation and legislation over countries separated by thousands of miles of sea.”

Taxation from thousands of miles across the sea was something which had a rather unpleasant sound in Canadian ears, and our statesmen did not at all agree that it was, as Mr. Chamberlain thought,

“a desirable consummation to be approached by a process of gradual development.”

As a first instalment of federation, Mr. Chamberlain endeavored to bring about a commercial union of the Empire — that is, to provide for some joint control over the making of customs-tariffs for the whole Empire. This, he said, was the preliminary step to German consolidation, and it would lead to political union of the British Empire. But Mr. Chamberlain at once antagonized all the colonies, and proved the hopelessness and impracticability of joint control, by insisting that commercial union must be based upon the abandonment of protection within the Empire. In the speech already quoted from, he said:

“But the principle which I claim must be accepted, if we are to make any, even the slightest, progress, is that within the different parts of the Empire protection must disappear.”

Mr. Chamberlain soon became convinced that protection would not disappear, and he abandoned the attempt to create

his commercial union. He is now a strong believer in the Canadian system of protection and preferences — each part of the Empire maintaining control of its own tariff, but giving, either voluntarily or by agreement, the benefit of preferential rates to other parts of the Empire.<sup>1</sup>

The difference between this system and commercial union is the difference between coöperation and incorporation — the same difference that marks all contrasts between Chamberlain imperialism and Canadian imperialism. Coöperation, not incorporation, is a short but correct description of Canada's conception of all imperial relations.<sup>2</sup>

Another of Mr. Chamberlain's proposals was the institution of an Imperial Council. Feeling that he could not propose the admission of colonials into the British Parliament, he suggested at the Conference of 1907 that it might be

“feasible to create a great Council of the Empire to which the colonies would send representatives . . . persons who . . . would be able to give really effective and valuable advice,” adding that, “if such a Council were to be created . . . it is perfectly evident that it might develop into something still greater.”

Sir Frederick Pollock called it a Council with “persuasive

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<sup>1</sup> In “Monthly Notes on Tariff Reform” for April, 1905 (Mr. Chamberlain's special publication), it is said “that a central imperial Parliament or council with power to control tariffs, is no part of Mr. Chamberlain's scheme. What is proposed is a preferential arrangement by conference and treaty between the United Kingdom and the several colonial governments — neither government surrendering parliamentary control of taxation, except in the sense in which such control is limited by any commercial treaty between nations, *e.g.* by the Cobden treaty between England and France.”

<sup>2</sup> An Australian newspaper (*The Bulletin*) suggests the phrase “Alliance not Dependence,” saying that it “welcomes the British alliance, but detests the British supremacy.”

authority." The Conference declined to approve the proposal, resolving instead

"that the present political relations between the United Kingdom and the self-governing colonies are generally satisfactory under the existing condition of things."

What a great advisory Council of the Empire would be, may be judged to some extent by the proceedings of the late Conference, when, with the exception of Canada, the colonies expressed disapproval of the British government's attitude to protection and preferences. Canada offered no criticism, nor would she be inclined to pay much deference to the judgments of Australian, South African, and even British Premiers should they agree in condemning some policy which she had approved. Sir Wilfrid Laurier was undoubtedly right when he said at the Conference that imperial relations must rest upon this,

"that every community knows best what does for itself."

Canada would not tolerate "persuasive authority" from any gathering outside of Canada.

The proposal of a Council is dead. At the last Conference, Mr. Lyttleton (Mr. Chamberlain's successor) endeavored to change the word "Conference" to "Council," but as soon as Sir Wilfrid pointed out the connotations of the word "Council" the Conference unanimously declined to make the change.

Another instalment of federation attempted by Mr. Chamberlain was the establishment of an Imperial Court of Appeal. In 1900, the Australian colonies requested the grant of a federal constitution. No objection was offered by Mr. Chamberlain (then Colonial Secretary) except to the clause limiting appeals of lawsuits to the Judicial Committee of the Privy Council. Upon this point he was somewhat obstinate because, as he said,

"it would be a retrograde measure so far as it affects the larger question of Imperial Federation."

And it would interfere, he said, with proposals

"for amalgamating the Judicial Committee with the House of Lords so as to constitute a Court of Appeal for the whole British Empire."

That proposal, however, was almost immediately abandoned. Mr. Chamberlain found that his own people would not give up their appeal to the House of Lords, and his reason for denying to the Australians the right to settle for themselves such of their own lawsuits as they pleased, disappeared.

In announcing the withdrawal of this proposal, Mr. Chamberlain put forward another, and called a special Colonial Conference in 1901 to consider it. Asserting, erroneously, that the colonies desired a

"more effective and continuous representation on the Judicial Committee"

than they then had, Mr. Chamberlain proposed to appoint from the colonies

"four additional Law Lords with seats in the House of Lords as well as on the Judicial Committee."

Seats in the Lords were, however, not a sufficient bait, and Mr. Chamberlain had to report that

"the result of the Conference has been to show that no far-reaching alteration in the present tribunal is desired or would be considered by the colonies generally."

Contributions from the over-sea parts of the Empire in support of the British navy was an instalment of federation upon which Mr. Chamberlain was especially insistent. Before his time (in 1887), Australia had commenced what has been called subscriptions to the British navy, but what was really

payments of money in exchange for the permanent stationing of certain British war ships in Australian waters. Other colonies followed Australia's lead, and by 1902 Canada was left alone as a non-subscriber. Canada was upbraided, but she continued her own course, founding herself upon the principle that any money available for naval defence she would spend for herself upon her coast defences and the commencement of a naval force. Canada spends large sums annually upon her land forces. Will any one say that it would have been better had she always subscribed to the British army, rather than equip soldiers of her own?

The last Conference was remarkable for many things, but for nothing in so great a degree as the conversion not only of Australia but of the Admiralty itself to the Canadian idea.<sup>1</sup> Some people unaware of the result of Australian and other experience still speak as though Canada ought to subscribe to the British navy. But no one can help sympathizing with the view of Natal, for example, whose Premier spoke of her subscriptions as

"simply a cold lump sum voted on our estimates, for which we have no actual evidence as concerning the people we represent."

In this matter, as in all others, Canadian policy is coöperation and not incorporation — development of our own forces, military and naval, so that when the time comes we may be ready to coöperate with the other parts of the Empire in such wars as the Empire may undertake.

Summarizing what I have said, observe that

1. The road of our political development has not led us away from monarchy, nor from the British Sovereign.
2. It has led us to almost complete independence.

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<sup>1</sup> Even the Imperial Federation (Defence) Committee seems to have accepted the same idea. See the *Times*, November 13, 1907.

3. The termination of the road is not far off, and it is the Kingdom of Canada under the British Sovereign.

4. Probably we shall not turn from that road to join the United States.

5. Nor shall we become a republic by ourselves.

6. Imperial Federation either in the lump or by instalments is impracticable and impossible.

It will be observed that although I have said that we are near the end of the road, I have not asserted that there is any general desire to hurry to its termination. We have little reason to complain of the usual course of our ordinary political life. But there is one feature of our relations to the Empire which is in a most unsatisfactory position and ought to be settled before it brings us embarrassment. I refer to the eventuality of war.

At present, in case of hostilities, we are under no legal or constitutional obligation to aid other parts of the Empire and they are under none to help us. No colony has any forces enrolled for over-sea service, and Canada on statute under which her men can be ordered out of Canada.

Further, Canada has no voice, is not even consulted, as to the propriety or necessity for war. It has been assumed that the making of peace and war shall be settled in London, and that the colonies shall have nothing to do but to fight when told to.

That situation is, I say, intolerably unsatisfactory. I am not arguing what Canada would do to-morrow if called upon. My own notion is that, as in the Boer war, more men would volunteer than could be accommodated with places. But I do say that Canada cannot be satisfied with an arrangement which gives her no voice whatever in the matter which is of all others the most important to her.

Remember, for example, the Fashoda incident. Lord Salisbury's prompt and peremptory ultimatum to France brought the two nations to the very verge of war, and Canada would have been expected to send her men. But Lord Salisbury probably never imagined what that might mean to Canada. With statesmanlike tact, British and French descendants have in Canada been almost welded into one people. But not entirely so. If Canada is to take part in a war against France, it should be in pursuance of arrangements well thought out and agreed to under unexciting circumstances.

Look, too, at the British-Japanese war alliance, by which each party guaranteed the eastern territory of the other. Should Japan and the United States go to war, and should the United States take Formosa (as from Spain she took the Philippines), the United Kingdom and the United States would be at war. And Canada? Well, all that I say is that eventualities of that sort ought to be provided for. If Canada had had any voice in the making of war treaties for the Empire, she would never have agreed to the Japanese alliance. No one who has had the pleasure of visiting the Japanese islands can have failed to be impressed alike with the beauty of the country and the energy and capacity of the people. But we do not wish Japanese jurisdiction established either in Alaska or Puget Sound. It would alter our whole domestic economy, and we cannot agree to help them as against the United States.

But what can be done? We cannot expect to be kept informed upon every step in British foreign negotiation, even though it may be such as to involve the possibility of war. Why then speak of being consulted? War comes suddenly and consultation by cable is impossible.

Quite true. But is there one alternative only, namely, that for all time Canada is to be a mere appendage and to have



no voice at all in matters of peace and war? If so, I for one vote against being an appendage.

There is fortunately another alternative. There is the usual method of procedure when two nations wish to act together in case of war. They make an agreement about it. They do not interfere with one another's foreign affairs. One does not, usually, consult the other. One agrees merely to support the other in certain eventualities.

Are we ready to agree to engage in war with France, or the United States, or Japan? Are we ready to send contingents to fight with Germany? Are we willing — no matter what the cause of the war, even though it be one wholly opposed to Canadian interests? Are we willing — although at the same time settlement of our own quarrels is taken out of our hands and hushed down by generous diplomatic concession "in the interests of the Empire at large," as goes the customary phrase? If so, let us deliberately say so. For my part, I think we shall not say so.

And if we think such a position too humiliating, altogether too unworthy of a people twice the size of the United States on its first independence day, let us say that too, and let us, if we can, enter into some well-defined arrangement with the United Kingdom. Let the promises, and the powers, and the advantages, be mutual. Canada must some day have something to say upon the greatest of all national questions — the question of peace and war.

We cannot accept Mr. Chamberlain's idea of our duty. At the Colonial Conference of 1902, through the Colonial Defence Committee, he asked the colonies

"to give some assurance as to the strength of the contingents which they should be able to place at the disposal of His Majesty's government for extra-colonial service in a war with a European power."

He said nothing, you will see, as to the cause of the war, or the power against which we were to fight, or as to consulting us beforehand. He merely wished to know how many men we would send. Natal and the Cape said that they could not send any. Canada and Australia replied that that matter should be left

“to the colony, when the need arose, to determine how and to what extent it should render assistance.”

Under present circumstances that was the proper reply; but it was proper only because of the ambiguity of our situation. It is a direct assertion of Canada's right to settle such matters for herself. But my idea is that she should settle them, not under pressure, but during some period of tranquillity.

It is sometimes suggested that Canadian independence would speedily result in enforced ingulfment in the United States. Sir, I believe that one of the greatest benefits to be derived from independence is that by it we should be compelled to place our war relations upon some satisfactory basis. If we are willing to agree to supply men and money for every British war and under all conditions, we should have to say so, instead of returning evasive answers. And if, in return for such help, the humiliating period of ever recurring kow-towing to the United States is to cease, then that also should be stated and specifically agreed to.

The advent of Canadian independence will necessitate some definite arrangement. If an agreement can be made, we shall be stronger against the United States than we are to-day. And if none be possible, we shall all know, what indeed is already sufficiently apparent, that our present situation, while it involves our participation in foreign wars, affords us no security against United States aggression.

Now do not take me as advocating independence in this

address. I am doing nothing at the moment but pointing out to you the road that we are on, and suggesting what its termination will be, if we do not turn from it. I am not pretending either, that independence under the British Crown is a position free from objection. There are, indeed, examples, but not of the most encouraging character, of two countries with no other organic union than a common King, — such as England and Scotland under the Stuarts, and Great Britain and Hanover under the Georges. The first of these ended in political union, and the second in complete separation. How long the United Kingdom and Canada would continue to acknowledge the same Sovereign, no one can venture to say. Some untoward incident might speedily terminate the situation; but if the Canadian schemes of imperial coöperation are allowed free play, a vast increase in sympathy and interest might prolong it indefinitely.

I have no time to dwell upon these schemes, or to trace the difficulties which Canada has encountered in getting them into operation. I can do little else than mention them.

First, there is the Canadian system of imperial preferences. Canada has converted the Empire, with the sole exception of the United Kingdom, to that great idea, and by converting Mr. Chamberlain has so impressed the sole dissentient that a strong political party is now advocating colonial preferences. *Imperial coöperation in trade.*

Secondly, there is the Canadian idea of imperial cables — direct and cheap communication with all parts of the Empire, and landings upon territory of the Empire only. Thanks to Sir Sandford Fleming's persistence, we have already a large instalment of such cables, owned and managed by various parts of the Empire. *Imperial coöperation in telegraphy.*

Thirdly, there is the Canadian idea of cheap imperial

postage. Thanks very largely to Sir William Mulock, an ounce letter may now go to any part of the Empire for two cents, and the rate of postage upon British periodicals has been reduced from last year's rate of four pence a pound to this year's rate of a penny a pound. What that means may be imagined when we know that its immediate effect was to increase the number of bags of British mail by Canadian steamers (the only ones affected) in May and June of this year by one hundred and sixty-four per cent. over the corresponding months of the previous year. *Imperial coöperation in cheap postage.*

And fourthly, there is the Canadian idea of an "All-Red Route" of transportation, which is meeting with the usual opposition, but which we shall have. *Imperial coöperation in transportation.*

We now see clearly the difference between Chamberlain imperialism and Canadian imperialism. Canada has successfully opposed all attack upon her powers of self-government. Imperial federation in the lump has been given up. The instalment plan has been rejected. No statesman and no organization now suggest commercial union, or an Imperial Council with "persuasive authority," or an Imperial Court of Appeal, or subscriptions to the British navy (even the Navy League and the Admiralty have abandoned that idea), or ready contingents for over-sea service under all conditions.

Canada has resisted all attempts at political incorporation, and when I say "Canada," I do not mean merely the present government of Canada. They, indeed, have been, by necessity, our representatives, but that they represented us fairly is well attested by the fact that no word of complaint or criticism of their actions has been offered by the political party opposed to them.

Last July Sir Wilfrid Laurier returned from the recent Colonial Conference. Since then Mr. Borden has delivered a most interesting series of addresses throughout the Dominion. He has attacked Sir Wilfrid upon every point except his conduct at the Colonial Conference.<sup>1</sup> Mr. Borden has never given us the slightest reason to suspect that he is less of a Canadian than the very best of us.

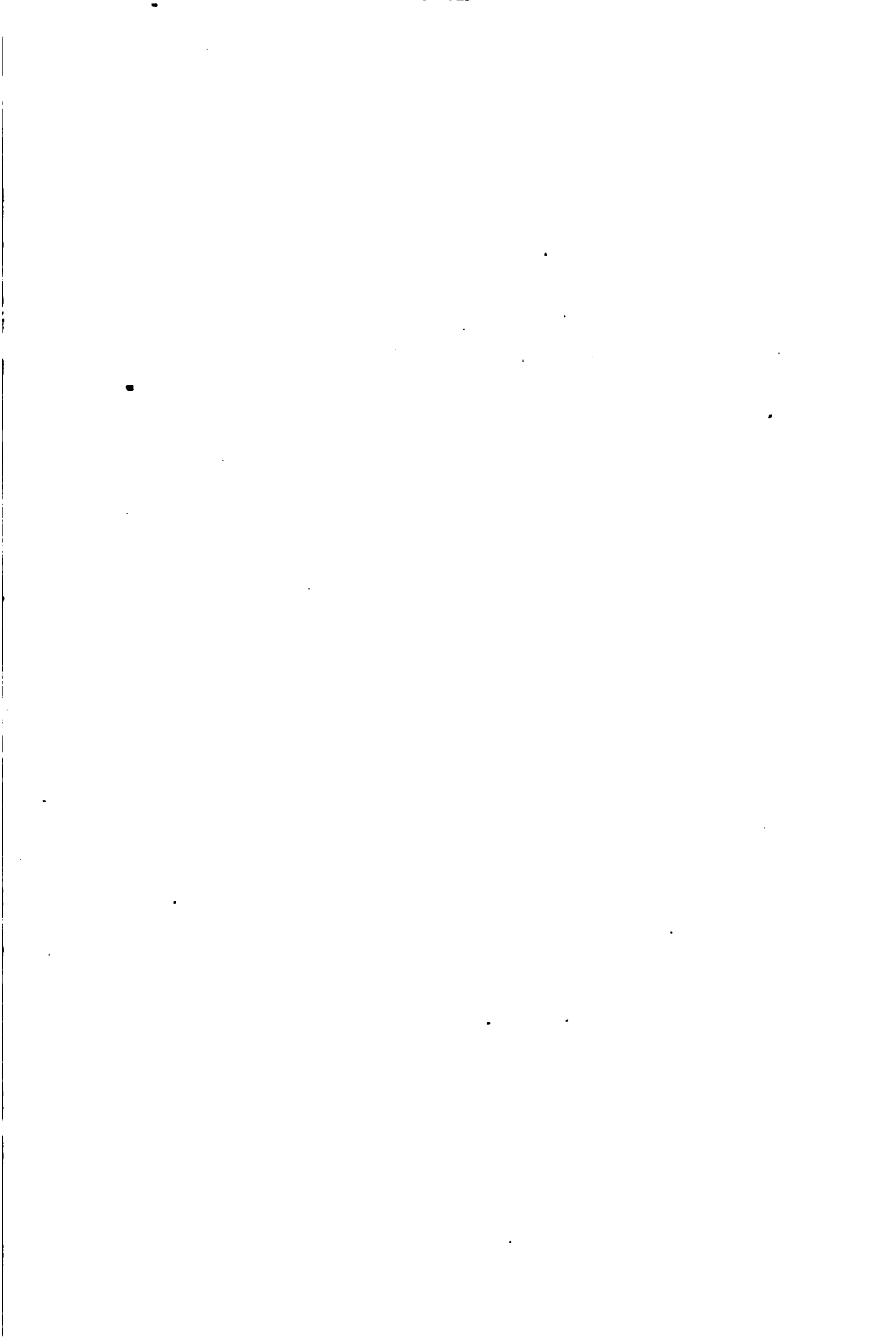
Gentlemen, I have finished, and my last word must be that if in some proximate or some far-off day the future of Canada shall be as I have indicated—nationhood; self-control; political equality with the United Kingdom, instead of subordination and subserviency to the Colonial Office; the Kingdom of Canada, instead of one of many “Dominions beyond the Seas”; imperial coöperation in all matters of mutual advantage; coöperation in war under agreed conditions; coöperation in trade; coöperation in communications by cables, by post, and by speediest methods of travel; the increase and advancement, by these means, of imperial sympathy and friendship and brotherhood—if this be our future, then I say that we shall yet reach the goal aimed at by Sir John A. Macdonald forty years ago; we shall yet be

“a great British monarchy in connection with the British Empire and under the British Queen . . . recognizing the Sovereign of Great Britain as its sole and only head.”

Gentlemen, that is, I think, a future of which we need neither be afraid nor ashamed.

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<sup>1</sup> Since the delivery of the above address, Parliament has met and the debate upon the Speech from the Throne has taken place. No member complained of Sir Wilfrid Laurier's attitude at the Conference.



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